

3 DECEMBER 1947

I N D E X
of
WITNESSES

<u>Defense' Witnesses</u>	<u>Page</u>
YOSHIE, Seiichi (recalled)	34381
Direct by Mr. Freeman	34381
Cross by Colonel Mornane	34393
<u>MORNING RECESS</u>	34395
Cross (cont'd) by Colonel Mornane	34396
(Witness excused)	34396
NINOMIYA, Yoshikiya	34411
Direct by Mr. Freeman	34411
Cross by Colonel Mornane	34416
<u>NOON RECESS</u>	34421
Cross (cont'd) by Colonel Mornane	34423
(Witness excused)	34437
HARA, Shiro	34450
Direct by Mr. Freeman	34450
<u>AFTERNOON RECESS</u>	34451
Direct (cont'd) by Mr. Freeman	34452
Cross by Colonel Mornane	34455

3 DECEMBER 1947

I N D E X

of

EXHIBITS

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2475	3503-B		Redirect Interrogatory of Mr. Eugen Ott		34372
2782	3525		Affidavit of YOSHIE, Seiichi		34382
2732	3526		Interrogation of General ABE, Nobuyuki dated 12 February 1947		34402
2765	3527		Affidavit of NINOMIYA, Yoshikiyo		34412
1552 Item 28		3528	Vice Minister's answer to the Foreign Vice- Minister dated 25 March 1942		34419
1552 Item 51		3529	Two Letters dated 23 June 1942 from the Vice Foreign Minister to the President of the POW Intelligence Bureau and replies		34426
2664	3530		Affidavit of OTSUKI, Akira		34438
2621	3531		Affidavit of MATSUMURA, Shuitsu		34439
620-A-1	3532		Extracts from Interrogation of SATO, Kenryo		34443

I N D E X
of
EXHIBITS
(cont'd)

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
2643	3533		Affidavit of HARA, Shiro		34449
2665	3534		Affidavit of KURAMOTO, Keijiro		34464
2733	3535		Affidavit of NAKAMURA, Aketo		34466
1807	3536		Official dispatch from Minister SHIGEMITSU to Foreign Minister SHIDEHARA dated 26 August 1931		34470
1808	3537		Official dispatch from SHIGEMITSU to SHIDEHARA dated 25 August 1931		34472
1809	3538		Official dispatch to Foreign Minister SHIDEHARA from Minister SHIGEMITSU dated 11 September 1931		34474
1810	3539		Dispatch from Minister SHIGEMITSU to the Foreign Minister SHIDEHARA dated 13 September 1931		34476
2704	3540		Affidavit of MORIYA, Kazuro		34482

Wednesday, 3 December 1947

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

Appearances:

For the Tribunal, all Members sitting, with
the exception of: HONORABLE JUSTICE SIR WILLIAM F.
WEBB, Member from the Commonwealth of Australia, not
sitting from 0930 to 1600.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

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MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now in session.

ACTING PRESIDENT: All the accused are
present except MATSUI who is represented by counsel.
We have a certificate from the prison surgeon at
Sugamo testifying that he is ill and unable to attend
the trial today. The certificate will be recorded and
filed.

Will you come to the lectern, please, Mr.
Cunningham?

(Whereupon, Mr. Cunningham approached
the lectern.)

ACTING PRESIDENT: Upon reading the transcript
of yesterday's proceedings on pages 34,331 and -332 I
find the following question asked by the Acting
President:

"Do you confirm the fact that the above-
mentioned estate was then the headquarters of Japanese
White Russian spies where anti-Soviet pamphlets were
printed for conveying to the Soviet Russia and where
the different subversive measures have been worked out
against the U.S.S.R.?

"MR. CUNNINGHAM: I should like to object to
that question for the reason that it is immaterial and
it is common knowledge that Soviet Russia has the same

activities going on in practically every country in
1 the world and we should not have to defend against
2 something like that."

3 I did not quite catch the import of these
4 remarks at the time they were made or I would have
5 commented on them at that time.

6 The Tribunal unanimously considers such
7 accusations highly improper. They were doubtlessly
8 made through inadvertence by counsel and should be
9 withdrawn.

10 MR. CUNNINGHAM: May I ask the consequences
11 in case they are not withdrawn?

12 ACTING PRESIDENT: That is a highly improper
13 question, too.

14 MR. CUNNINGHAM: Well, if it is a mere
15 reprimand, your Honor, I believe that I can refer to
16 the congressional record of the United States and
17 probably to the investigative branches of the governments
18 of the world and make out a pretty fair case. But if
19 there are serious consequences which might --

20 ACTING PRESIDENT: We care for no argument on
21 that point. The simple question is do you care to
22 withdraw them.

23 MR. CUNNINGHAM: Definitely, if it has any
24 effect upon my professional standing in the future, I

will withdraw the remarks.

1 ACTING PRESIDENT: We want no conditions like
2 that attached to it.

3 MR. CUNNINGHAM: Well, that deserves a little
4 serious consideration, your Honor. I suggest that a
5 little time be given to consider that matter, because
6 I can't subscribe wholly to the decision of the
7 Tribunal on that question. If it is a matter of
8 prudence or a matter of principle; as a matter of
9 prudence I withdraw the remark. As a matter of
10 principle I would have to consider it.

12 And in deference to my associate counsel, from
13 whom I have just received word, and upon a little
14 further consideration of suggestions from the prosecution,
15 I withdraw the remark -- withdraw the objection.

16 ACTING PRESIDENT: I have one further comment.

17 Yesterday, objection was made by counsel to
18 questions asked the witness by the Tribunal. It should
19 be understood by all counsel that the Tribunal will
20 entertain no objections to questions asked by it.

21 MR. CUNNINGHAM: Your Honor, isn't that a
22 reversal of the position taken by the Tribunal some
23 time ago when a question was propounded in behalf of
24 the Russian Member of the Court and the Court went
25 out in a recess to consider whether or not that question

1 should be entertained? And I consider that as a
2 matter of right and not a matter of discretion or
3 privilege.
4

5 ACTING PRESIDENT: The comment applies to
6 objections made by counsel. Objections by Members of
7 the Tribunal are considered by the Tribunal and
8 governed by a majority ruling of the Tribunal.

9 MR. CUNNINGHAM: Well, your Honor, it has
10 never made any difference to me who asks the question
11 if it is objectionable. That has been my position.

12 ACTING PRESIDENT: Whatever your position
13 may be makes no difference. It is not the position of
14 the Tribunal and the position of the Tribunal governs.
15 You will proceed with the evidence.

16 MR. CUNNINGHAM: Well, as I understand it, the
17 document which was in controversy yesterday has been
18 already offered into evidence and it is just a matter
19 of distribution. I don't recall just exactly what the
20 position is in regard to the matter now.

21 ACTING PRESIDENT: Isn't this part of your
22 redirect examination?

23 MR. CUNNINGHAM: Yes, but I am not offering
24 it. Prosecution is offering it. That gets into the
25 question of the right of the prosecution to offer it
 again. But I am not going to argue that again because

even though I think it is not admissible, has no
1 probative value, has no place in the case, I am not
2 going to argue the question. I have no desire to
3 read it. If the prosecution wants to read it and wants
4 to offer it, why, that is up to them.
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1 ACTING PRESIDENT: The Tribunal would like
2 to have it read, Mr. Tavenner.
3

4 MR. TAVENNER: At page 33,950, if the Tri-
5 bunal please, it was declared to be the holding of
6 the Tribunal that it should be admitted in evidence
7 at such time as it may be presented and that, when
8 admitted, it be given the number 3503-B.

9 If there is any uncertainty on the part of
10 counsel for the defense about presenting it in be-
11 half of the defense, I will present it in behalf of
12 the prosecution, so I will ask counsel whether or
13 not they are tendering it.

14 MR. CUNNINGHAM: That would call for a re-
15 versal of my position. I didn't present it in the
16 first place, because I didn't think it had any
17 probative value. Now, why should I present it just
18 because prosecution requests it?

19 MR. TAVENNER: Then, I tender the document
20 in evidence.
21

22 MR. CUNNINGHAM: And, I object to its
23 tender on behalf of the prosecution, because it is
24 not part of the cross-examination of any witness
25 before this Triburnal and is not available to the
prosecution as part of their case.

ACTING PRESIDENT: Wasn't this matter

brought out on cross-examination?

MR. TAVENNER: I filed cross-interrogatories in which I introduced three affidavits. This document is the cross-examination on those three affidavits. I meant to say, three telegrams, instead of three affidavits, and this document is the redirect examination on those three telegrams.

ACTING PRESIDENT: Objection overruled.

The document will be admitted in evidence.

CLERK OF THE COURT: The redirect interrogatory for Mr. Eugen Ott, being part of defense document 2475, will receive exhibit No. 3503-B.

(Whereupon, the document above referred to was marked prosecution exhibit No. 3503-B and received in evidence.)

MR. TAVENNER: I will read this exhibit:

"I. With respect to Paper No. 1 attached to the cross-interrogatory in behalf of the prosecution (a telegram from Ott, dated 31 December 1939);

"Question 1. You stated in your telegram that: 'according to opinions of Ambassadors OSHIMA and SHIRATORI who are strongly working for the collapse of the present cabinet . . .' Please state concretely what actions OSHIMA took in this respect; furthermore, please state also the basis of your

1 knowledge about this matter.

2 "Answer: This is a general situation re-
3 port which reflected the political pressure in Japan.
4 The Cabinet was inefficient and was being attacked
5 from various sides. The opposition of OSHIMA and
6 SHIRATORI was not a determining factor. I do not
7 remember the details of their actions and the basis
8 of my knowledge.

9 "Question 2: On what occasion, or under
10 what circumstances, did OSHIMA make the statement
11 referred to in your telegram that: 'still 2 or 3
12 more transition cabinets will be necessary in order
13 to bring about a fundamental change of course'?

14 "Answer: It was generally accepted that
15 the Japanese Cabinet should follow a more concili-
16 atory course. It was mentioned by OSHIMA in one
17 of my personal unofficial discussions with him. The
18 change of the Cabinet in Japan was a subject of com-
19 mon conversations at the time.

20 "III. With respect to Paper No. 2 attached
21 to the cross-interrogatory in behalf of the prose-
22 cution (a telegram from Ott, dated 23 January 1940):

23 "Question 1: You stated in this telegram
24 with respect to the settlement of the question of
25 Germans taken away from SS 'Asama-Maru' by the

1 British that: 'Step by step tactics are, in view
2 of the Japanese mentality, the only ones with pros-
3 pect of success; this is also in accordance with
4 the strong advice by Ambassadors OSHIMA and SHIRA-
5 TORI.' On what occasion, or under what circum-
6 stances, was this advice of OSHIMA made?

7 "Answer: I asked the personal private" --
8 the next word is garbled -- "the personal private
9 advice of OSHIMA in this matter, which was compli-
10 cated and had to be handled under special consider-
11 ation of the Japanese sensibility. For this purpose
12 I expected OSHIMA's experience would be helpful.

13 "III. With respect to Paper No. 3, attached
14 to the cross-interrogatory in behalf of the prose-
15 cution (a telegram from CGO, dated 26 January 1940):

16 "Question 1: You stated in this telegram
17 OSHIMA's opinion on the relations between the visit
18 of Duke of Coburg to Japan and the anti-British
19 movements in Japan; on what occasion, or under what
20 circumstances, was this opinion expressed by OSHIMA?

21 "Answer: I paid a visit to OSHIMA at his
22 home in only to get his advice and to find a way out
23 of the resistance of the Japanese Government against
24 the mission of the Duke. I expected a more favorable
25 reaction of Ribbentrop by expressing also the opinion

1 of OSHIMA. I did not suggest to OSHIMA that I might
2 quote him on the matter."

3 I am advised that the next to the last word
4 in the third sentence from the bottom of page 16-c
5 should be "order" instead of "only."

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1 MR. CUNNINGHAM: Your Honor, is there any
objection on the part of the Tribunal to my filing at
this time a brief of authorities on the question of law
supporting my contentions on what the evidence in this
case proves at this time? My reason for that is that I
considered that the Tribunal would have a little time
now to consider the matter and the evidence would be
clearer in its mind than presenting a brief and memorandum
at the end of the case when the Tribunal was bewildered,
perhaps, by the vast amount of summation and brief and
memoranda filed by the counsel.

12 ACTING PRESIDENT: By a majority, the Tribunal
13 denies your request.

14 MR. CUNNINGHAM: Well, that ends the presenta-
15 tion of the individual phase of Ambassador OSHIMA's
16 case, with the reservations made yesterday.

17 ACTING PRESIDENT: Mr. Freeman.

18 MR. FREEMAN: It is requested that the errata
19 sheet distributed on the opening statement be disregarded.
20

21 The accused SATO will not take the stand.
22 There are several reasons for this. I would like to set
23 them out briefly for the benefit of the Tribunal.

24 The desire to save valuable time when com-
25 patible with the doing of justice dictates that this pro-
cedure be followed. Quite obviously the prosecution has

1 failed to substantiate the Indictment charges against
2 this accused. Innuendos and inferences not arising from
3 concrete evidence have never occupied a position of any
4 merit whatsoever before any court. Certainly, there-
5 fore, counsel is entitled to the sound assumption that a
6 different rule will not be applied before this Interna-
7 tional Tribunal.

8 For a trial that has shattered all precedents
9 in history for length and complication, consuming a
10 period of over a year and a half, and promising to en-
11 velop a two-year period, the only hope for expediting
12 matters is for counsel to rely upon his considered judg-
13 ment as to whether or not to advise a defendant to take
14 the stand. After careful study and deliberation, the
15 undisputed revelation arising from the reading of the
16 record is that there is simply no evidence of any merit
17 adduced against the accused SATO to warrant an individual
18 defense. Hence this presentation will entail the offer-
19 ing of only a few documents designed to clarify minor
20 issues.

21 The accused SATO held no office of importance
22 until after the beginning of the Pacific war, and that was
23 to become Chief of the Military Affairs Bureau in April,
24 1942. Evidence will be offered as to the occasion of
25 this appointment. Frankly, the prosecution has relied

almost solely upon the one professional witness to
1 emerge in this trial, General TANAKA, Ryukichi, for what
2 evidence it has offered against this accused. The
3 Court's attention is directed to the fact that TANAKA
4 has thus far appeared seven times as a witness, being
5 used both by the prosecution and by the defense, and you
6 may expect to hear him again. The inclination is not to
7 dignify this witness' testimony by replying. However,
8 in order to demonstrate to the Tribunal the slight re-
9 gard TANAKA has for the truth, answers will be made.
10 Substantial and convincing evidence will be offered to
11 disprove every statement made by the witness TANAKA as
12 it relates to the accused SATO.

TANAKA testified, record page 15,872, that
14 SATO told him he went to see former Prime Ministers
15 General HAYASHI and General ABE on behalf of TOJO's be-
16 coming Prime Minister when the Third KONOYE Cabinet re-
17 signed. The accused MUTO, record page 33,159, testified
18 that TOJO's becoming Prime Minister was a complete sur-
19 prise to all in the War Ministry. Additional evidence
20 will be offered to refute TANAKA's testimony as to this
21 matter.

TANAKA testified that protests received by the
23 Foreign Office were routed to the Military Affairs Bureau
24 and replies prepared within the Military Affairs Bureau.

Colonel NISHIURA, who was a section head within the
1 Military Affairs Bureau, testified, record page 32,960,
2 that he never saw any such protests, nor were any replies
3 prepared in his section. Additional evidence will be
4 offered to refute TANAKA's statement.

5 TANAKA further testified that there was a
6 group of junior officers within the Military Affairs
7 Bureau, and particularly the Administrative Section, who
8 were in favor of the extreme penalty being meted out to
9 the Doolittle fliers. Colonel NISHIURA testified that
10 this was not a fact. TANAKA, when asked to name one of
11 the junior officers, gave the name of Colonel OTSUKI.
12 Colonel NISHIURA testified that OTSUKI left Japan for
13 Saigon in December, 1941, and did not return to Japan
14 until the end of the war. Colonel OTSUKI himself will
15 appear in person to refute this evidence.

16 It would be merely repetitious for the accused
17 to offer evidence relating to the functions and duties
18 of the Military Affairs Bureau as this has been amply
19 covered by documents already in evidence. We refer par-
20 ticularly to exhibit No. 3439. Exhibits Nos. 270 and
21 2235 are one and the same, and are speeches supposed to
22 have been made by the accused in 1938 at a policemen's
23 conference. While these speeches have never been proper-
24 ly authenticated before the Court, evidence will be

offered to show that such speeches were mere releases
1 from the Information Bureau in the War Ministry for the
2 information of the public, and in no way referred to any
3 policy of the Japanese Government.

4 Lastly, it will be shown that in the closing
5 period of the war, in 1945, the 37th Division in Siam,
6 of which the accused SATO was in command, was purely an
7 operative division and had nothing to do with any mis-
8 treatment of civilians or prisoners of war that may have
9 occurred in that area.
10

11 Reference is made to the following exhibits
12 which we respectfully request be incorporated as part of
13 the defense of this accused:

14 Exhibit No. 3447, MIKI, Yoshihide, relative to
15 the November 27, 1941 meeting of Bureau Chiefs, where
16 MUTO was supposed to have read exhibit No. 1175, and
17 which relates to SATO.

18 Exhibit No. 3034, which is an affidavit of
19 General Kretchmer, Military Attaché to Japan, relative to
20 certain decorations given by Germany to Japanese Govern-
21 ment officials, including the accused SATO.

22 Exhibit No. 841, record page 18,278, relative
23 to the accused and the Five-Year Plan.

24 Exhibits Nos. 3439 and 2238, relative to
25 Imperial Headquarters, also as to attendants and

YOSHIE

DIRECT

34,381

explainers in Parliament.

1 Exhibit No. 3469, as to Greater East Asia Conference.

2
3 I now call the witness YOSHIE, Seiichi, whose
4 affidavit relates to the accused SATO's appointment in
5 the Military Affairs Bureau of the War Ministry, and
6 shows that such appointment came through the usual
7 channel and not through any favoritism.
8

9 - - -

10 SEIICHI YOSHIE, recalled as a witness
11 on behalf of the defense, having been previously
12 sworn, testified through Japanese interpreters as
13 follows:

14 ACTING PRESIDENT: You are warned that you are
15 still under your former oath.

16 THE WITNESS: I understand.

17 DIRECT EXAMINATION

18 BY MR. FREEMAN:

19 Q Will you give us your name and address?

20 A My name is YOSHIE, Seeichi. My address is
21
22 804 Shimo-Ochiai, 2-chome, Shinjuku-ku, Tokyo.

23

24

25

YOSHIE

DIRECT

34,382

Q May the witness be shown defense document
1 2782?

2 ("Whereupon, a document was
3 handed to the witness.)

4 Is that your affidavit and have you signed
5 it?

6 A This is my affidavit and I have signed it.

7 Q Are the contents therein true and correct?

8 A Yes, true and correct.

9 MR. FREEMAN: I offer in evidence defense
10 document 2782. : :

11 ACTING PRESIDENT: It will be admitted in
12 evidence.

13 CLERK OF THE COURT: Defense document 2782
14 will receive exhibit No. 3525.

15 ("Whereupon, the document above
16 referred to was marked defense exhibit
17 3525 and received in evidence.)

18 MR. FREEMAN: I shall read in evidence
19 exhibit 3525:

20 "Having first duly sworn an oath as on
21 attached sheet and in accordance with the procedure
22 followed in my country, I hereby depose as follows:
23

24 "1. I am a former lieutenant colonel and
25 during the period of from October 1, 1940, to April 30,
1943, was mainly in charge of the personnel affairs of

YOSHIE

DIRECT

34,383

the army staff officers at the General Staff Headquarters, and engaged in the personnel and protocol business of the army officers in the War Ministry as a member of the Appointments Section of the Personnel Affairs Bureau since May 1, 1944, until the termination of war. The appointments of army staff officers, director of the Military Affairs Bureau and chiefs of sections in the said bureau were to be deliberated over by the director of the Personnel Affairs Bureau, War Ministry, upon consultation with the General Staff Headquarters. I am, therefore, in a position to be able to relate the general policy of the personnel administration and the order of appointment of the army at that time and the circumstances that led to the appointment of Mr. SATO, Kenryo as the Chief of the Military Affairs Section and Director of the Military Affairs Bureau.

"2. Since the so-called February 26 Incident which took place on February 26, 1934, the Army was particularly careful of the personnel administration and paid much attention to the official appointment so as not to be influenced by the consideration of any personal intimacy, or in short, not to create any clique in the army. All the ministers of war who assumed the ministerial office after the incident

YOSHIE

DIRECT

34,384

strictly maintained this policy. Consequently, the
1 autonomous power of making appointments by the Per-
2 sonnel Affairs Bureau, "War Ministry, was remarkably
3 strengthened so as not to be affected by the coer-
4 cion, disturbance, etc., by the outsiders in deliber-
5 ating appointments. General TOJO, when he assumed
6 the office of "War Minister, also observed this policy.
7 Especially during his ministerial office, when an
8 appointment was to be made, he instructed those con-
9 cerned to inquire closely into the personal history
10 of the candidate, particularly after the war broke
11 out, to make sure of the candidate having a thorough
12 knowledge of the circumstances to be able to carry
13 out the duty newly assumed, before the selection,
14 and then he submitted it to the minister for approval.

16 "3. In 1941, in consequence of the transfer
17 of Colonel KAWAMURA, Saburo, Chief of the Military
18 Affairs Section, "War Ministry, to the other post,
19 Mr. SATO, Kenryo was appointed as his successor.

20 "The appointment was first deliberated by
21 Lieutenant General NODA, then Director of the Personnel
22 Affairs Bureau, and then was approved by the "War
23 Minister.

24 "Because of his knowledge of the circumstances
25 in the Military Affairs Bureau and the Military Affairs

YOSHIE

DIRECT

34,385

Section through his service at the Military Section
1 for more than two years since its institution in
2 1926, his service as the Chief of the Press Section,
3 and also his service as a staff officer at the front
4 for about two years, and his experience of staying
5 in the United States when he was a captain, Mr.
6 SATO was recognized among the military circles to be
7 a person possessed of the deepest knowledge of not
8 only the situation in the army but also of the same
9 at home and abroad. All of us who were in charge
10 of personnel affairs considered the appointment
11 appropriate.

13 "In 1942, when Director of the Military
14 Affairs Bureau MUTO, Akira was transferred to another
15 post, Mr. SATO was appointed as his successor. He
16 was first selected by Lieutenant General TOMINAGA,
17 then Director of the Personnel Affairs Bureau, and
18 after the deliberation and the approval of the selec-
19 tion were given therefore by the Three Chiefs of the
20 Army (namely, Minister of War, Chief of the General
21 Staff and Inspector General of the Military Training),
22 he was appointed by the minister.

23 "It was also a very natural and appropriate
24 appointment. Mr. SATO was, as is obvious through the
25 aforementioned career, familiar with the business

YOSHIE

DIRECT

34,386

1 in the bureau owing to his service in the Military
2 Affairs Bureau, War Ministry, ever since just prior
3 to the war. Furthermore, he was qualified to be a
4 director of the War Ministry as he had already been
5 promoted to the rank of major-general. For these
6 reasons, he was considered to be a competent war-time
7 director of the Military Affairs Bureau, capable of
8 handling the complicated and busy tasks effectively.

9 "On this 20th day of October, 1947."

10 If the Tribunal please, I wish to ask a few
11 additional questions on direct examination.

12 Q Colonel YOSHIE, according to your affidavit,
13 you are familiar with the occasion of the appoint-
14 ment of General SATO as Chief of the Military Affairs
15 Bureau.

16 A Yes.

17 Q Did this appointment of the accused SATO come
18 through the regular channels that all the other appoint-
19 ments came through?

20 A Yes, through the same regular channels as all
21 appointments in general.

22 Q In so far as you know, was there any pressure
23 brought upon the General Staff or any other appoint-
24 ing authority to get this appointment through?

25 A As far as I know, there was nothing of the

YOSHIE

DIRECT

34,387

kind. I have never heard of it.

1 Q Did you know TANAKA, Ryukichi when he was
2 head of the Military Service Bureau?

3 A Yes.

4 Q Do you know when he resigned?

5 A He left the post of Chief of the Military
6 Service Bureau in 1942, in the summer or fall; I
7 don't recall which.

8 Q Do you know why he resigned as head of the
9 Military Service Bureau?

10 ACTING PRESIDENT: Colonel Mornane.

11 COLONEL MORNANE: If the Tribunal pleases, I
12 submit that this question is not relevant to any
13 issue before this Court.

14 MR. FREEMAN: If the Tribunal please, I respect-
15 fully submit that on record page 15,899 TANAKA has
16 testified that persons may resign for reasons other
17 than illness, and that is what I am trying to estab-
18 lish here before the Tribunal.

19 ACTING PRESIDENT: Objection overruled.

20 MR. FREEMAN: I am trying to establish --

21 ACTING PRESIDENT: I am overruling the objec-
22 tion.

23 MR. FREEMAN: Thank you. I didn't hear you.

24

25

YOSHIE

DIRECT

34,388

BY MR. FREEMAN:

- 1 Q Will you answer that question? Why did
2 TANAKA resign, if you know?
3 A TANAKA, Ryukichi resigned because of illness.
4 Q Are you familiar with the circumstances under
5 which an officer may resign from the regular army?
6 A Yes, I am.
7 Q As a general practice, was an officer per-
8 mitted to resign his commission because of disagree-
9 ment with his superior?

10 COLONEL MORNANE: If the Tribunal please, I
11 object to this question as leading.

12 MR. FREEMAN: I will reframe the question.

13 BY MR. FREEMAN:

- 14 Q Under what circumstances could an officer
15 of the army resign?
16 A Except on account of illness, under which
17 condition the person cannot continue his work, no
18 other reason was recognized.

- 19 Q Do you know General TANAKA, Ryukichi?
20 A Yes, I do.
21 Q How long have you known him?
22 A About one year.
23 Q When was that?
24 A From about the summer of 1941 until the time

YOSHIE

DIRECT

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TANAKA, Ryukichi left his position as Chief of the
1 Military Service Bureau.

2 Q Were you in a position to know of his work
3 and about him?

4 A Not in any detail.

5 Q Did you know of him generally during that
6 period?

7 A As we of the War Ministry and the General
8 Staff office were located in the same building, there
9 were frequent opportunities to meet and I was able to
10 hear about him quite often.

11 Q What was his reputation for truth and honesty?

12 ACTING PRESIDENT: Colonel Mornane.

13 COLONEL MORNANE: If the Tribunal please, I
14 know that in many municipal jurisdictions the general
15 reputation for truth and honesty of a man can be
16 placed before a court. What view this Tribunal will
17 take as to the international law outlook I do not
18 know, but I do submit that this witness has not been
19 qualified in the course of an acquaintance of eight
20 months to give any evidence as to the general reputa-
21 tion of General TANAKA for truth and honesty. Accord-
22 ingly, I object to the question on both grounds, one
23 as being irrelevant, and secondly, that the witness is
24 not competent to form an opinion.

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1 MR. FREEMAN: If the Tribunal pleases--

2 ACTING PRESIDENT: Mr. Freeman.

3 MR. FREEMAN: I would like to make reply
4 before the Tribunal rules on this objection.

5 As has been stated heretofore, the witness
6 TANAKA has appeared before this Tribunal some seven
7 times, appearing both as a prosecution witness and a
8 defense witness. I suggest that it is obvious from
9 his conduct and actions that the Tribunal must be
10 aware of some ulterior motive. It is an established
11 rule of evidence in most Anglo-Saxon courts that an
12 adverse witness may be impeached by showing his bad
13 reputation for truth and honesty. I shall not presume
14 upon the time of this Tribunal to cite voluminous
15 decisions in support of this contention. However, I
16 would like to cite Underhill on Criminal Evidence,
17 Section 423, which reads in part, and I quote:

18 "Either State or defendant may always intro-
19 duce independent evidence tending directly to show
20 that a witness for the opponent possesses a bad
21 reputation for veracity to impeach such adverse
22 witness after he has been examined in chief by the
23 party calling him. *** The impeaching witness ought
24 to be called from among those persons who are resident
25 near the domicile of the witness to be impeached. He

1 must first be asked if he knows the general reputa-
2 tion of the witness, ***. If the court believes he
3 knows the reputation of the witness for veracity, he
4 may state what the reputation is."

5 And I quote further: "It is not necessary
6 that the impeaching witness should be personally
7 acquainted with the witness whose credibility he
8 attacks. *** The evidence of the impeaching witness
9 must be confined strictly to the general reputation
10 of the witness for veracity, that is, to what he has
11 heard people say regarding this trait of character. ***"

12 *** ("A witness who is called to prove the
13 bad reputation of another may, after he has testified
14 to that reputation, be asked if he would believe the
15 witness under oath.")

16 Thus it is seen that the very credibility of
17 a witness--

18 ACTING PRESIDENT: We do not need all that
19 recital of law books.

20 MR. FREEMAN: This isn't citation.
21 The very credibility of a witness depends
22 largely upon his reputation in the community where he
23 resides. I am sure this Tribunal desires nothing but
24 the facts. If we were not permitted to attack the
25 credibility of, or impeach this witness, such a ruling

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would be tantamount to saying that the probative
1 value of all witnesses is the same, regardless of
2 their reputation for truth and honesty.

3 ACTING PRESIDENT: I have this question:
4 When the defense called TANAKA as a witness in the
5 general phases, did you, Mr. Freeman, disassociate
6 yourself from his testimony?

7 MR. FREEMAN: I certainly did. That was the
8 first -- At that time, if the Court recalls, I stated
9 that accused SATO did not join in the calling of this
10 witness because we specifically intended to attack
11 his credibility.

12 ACTING PRESIDENT: By a majority the objection
13 is sustained.

14 MR. FREEMAN: You may cross-examine.

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CROSS-EXAMINATION

1 BY COLONEL MORNANE:

2 Q Witness, what do you mean when you say that
3 the appointments of various officers were to be de-
4 liberated over by the Director of the Personnel Af-
5 fairs Bureau?

6 A By selection on the part of the Director of
7 the Personnel Affairs Bureau, I mean a just selection
8 of a suitable person for a certain post, not only from
9 the standpoint of his competence or suitability for
10 that post but also from the standpoint of the possible
11 effects of that appointment on other quarters.

12 THE MONITOR: Just a moment, please. We
13 have some clarification to be made. The witness used
14 a term which was translated as "selection," but that
15 term could be interpreted as "consideration before
16 selection" or "consideration for selection," some-
17 thing to that effect.

18 Q I see. By "deliberated over" you merely
19 mean he took part in the consultation before selection.

20 A I don't quite get the point of the question.

21 COLONEL MORNANE: I think it is awkward
22 here, if the Tribunal please. Apparently there is
23 one Japanese word that can give us two separate Eng-
24 lish words, that is, "consultation before selection"

meaning the same as "deliberated over."

1 THE MONITOR: Colonel Mornane, this is the
2 monitor speaking. I think you misheard our interpre-
3 tation, sir. I said "consideration before selection"
4 not "consultation."

5 ACTING PRESIDENT: Consideration.

6 COLONEL MORNANE: I am sorry.

7 Q Well, now, was that consideration before
8 selection provided for by regulations or as a matter
9 of the War minister's policy?

10 A Of course, there is a policy of the War
11 minister; but generally speaking, the fundamentals
12 are already stipulated in the regulations of the War
13 Minister.

14 Q Well, will you refer the Tribunal to the
15 particular regulation which provides for the Director
16 of the Personnel Affairs Bureau making the selection
17 of various officers?

18 A Well, I just do not quite remember, but I
19 think that that matter was stipulated in the regula-
20 tions governing the organization and functions of the
21 War Ministry.

22 Q You are not certain of that?

23 A I am quite certain that it is stipulated in
24 the regulations, but I do not recall the exact lang-

usage of the provisions.

1 Q Well, when, later in your affidavit, you
2 refer to it as a matter of policy, you say, "All the
3 Ministers of War who assumed the Ministerial office
4 after the incident strictly maintained this policy."
5 Why do you refer to it as a matter of policy if it
6 is, in fact, a matter laid down by regulation which
7 they cannot avoid?

8 A Without regard to time, the regulations
9 stipulate the basis upon which such actions are to
10 be taken. But, according to the situation and cir-
11 cumstances, the War Minister sets down certain de-
12 tailed policy.

13 ACTING PRESIDENT: We will recess for
14 fifteen minutes.

15 (Whereupon, at 1045, a recess
16 was taken until 1100, after which the
17 proceedings were resumed as follows:)

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MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

ACTING PRESIDENT: Colonel Mornane.

BY COLONEL MORNAME (Continued):

Q Now, Witness, in the next paragraph you
refer to the autonomous power of making appointments
by the Personnel Affairs Bureau. Does that mean that
the Personnel Affairs Bureau actually make the appoint-
ment, or is it the War Minister who actually makes
the appointment?

A By that I mean that the Personnel Affairs
Bureau merely carries out the business routine of
appointments, the actual decision is made by the War
Minister himself.

COLONEL MORNAME: That completes the cross-
examination, if the Tribunal pleases.

MR. FREEMAN: There is no redirect. May the
witness be excused?

ACTING PRESIDENT: He will be excused on the
usual conditions.

(Whereupon, the witness was excused.)

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MR. FREEMAN: I next offer in evidence defense
document No. 2732, which is an affidavit by General ABE,
Nobuyuki, Prime Minister the latter part of 1939. This

document is offered to refute the testimony of
1 General TANAKA, page 15,872, relative to his story
2 about the accused SATO visiting General ABE in the
3 interests of TOJO becoming Prime Minister, and other-
4 wise attacks the credibility of General TANAKA's tes-
5 timony.

6 ACTING PRESIDENT: Colonel Mornane.

7 COLONEL MOHNANE: If the Tribunal pleases,
8 there are certain parts of this document to which the
9 prosecution objects. The first part is on page two
10 of the English translation, and runs from the first
11 question on page 2 through to the second last answer
12 on page 3. In this part of the document the deponent
13 briefly recounts the names and durations of the various
14 cabinets from his own to KONOYE's Third Cabinet.
15

16 The objections of the prosecution are these:

17 1. As regards the case against SATO, it is
18 irrelevant.

19 2. As regards the case generally, it is
20 repetitive, covering points which have already been
21 given in evidence, and,

22 Thirdly, it has no real probative value.

23 I draw attention to the fact that in three
24 cases he answers questions asked by using the phrase
25 "if I remember correctly," and on another occasion

1 he uses the words "I believe," and I would submit that
2 that is far too vague.
3

4 If it meets with the approval of the Tribunal,
5 I would like to have a ruling on this before proceeding
6 to my objections to remaining parts of the affidavit.
7

8 ACTING PRESIDENT: What does this have to do
9 with SATO, Mr. Freeman?
10

11 MR. FREEMAN: If the Tribunal please, the
12 purpose of these questions and answers is to set up
13 the method by which, following 1939 I believe is the
14 date, the method in which prime ministers were recom-
15 mended. TANAKA has testified that SATO was instru-
16 mental in getting TOJO appointed Prime Minister. The
17 prosecution has referred to the fact that there prob-
18 ably was only a majority for TOJO when he was recom-
19 mended for Prime Minister. The purpose of this is to
20 show that at the time senior statesmen began recommend-
21 ing persons for prime minister that it was all unani-
22 mously and not by a majority vote at any time, and I
23 think it is important for that fact to show the manner
24 in which the prime minister was selected or recommended.
25

26 COLONEL MORNANE: If the Tribunal would permit
27 me, I would like to draw attention with regard to my
28 friend's contention that in the part objected to all
29 the witness says as to unanimity is that "I believe
30

1 that they all agreed," so it is obviously not proof
2 of that fact.
3

4 MR. FREEMAN: In answer to that I submit that
5 General ABE was present when every prime minister was
6 recommended, and he is certainly in position to say
7 whether it was unanimous or not.

8 ACTING PRESIDENT: By a majority, that part
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1 COLONEL MORNANI: My next objection, if the
2 Tribunal pleases, comes on page 10, from the second last
3 question on that page through to the end of the affidavit.
4 That is the question beginning "General, I have a book
5 here called 'Gunbatsu.'"

6 I would like to divide the parts objected to
7 up into three parts, the first running from that ques-
8 tion to the third answer on page 11, reading "It is not
9 true." These questions and answers are directed to the
10 truth of certain statements alleged to be contained in
11 a book alleged to have been written by the witness.
12 General TANAKA.

13 My first objection is that this book has not
14 been put in evidence and, therefore, the truth or
15 falsity of its contents are irrelevant to any facts in
16 issue in this case. We must, therefore, assume that
17 evidence as to its contents is being given with a view
18 to attacking the credibility of TANAKA as a witness. It
19 is submitted that it is not competent to call one witness
20 to attack the credit of another witness on a collateral
21 issue. If such a course was permitted then there would
22 be streams of witnesses for the prosecution and for the
23 defense for the purpose of building up or destroying
24 the credibility of other witnesses who had given evidence
25 as to facts in issue.

My next objection is that there is no evidence before this Court as to what was contained in this book. The affidavit of the witness takes a peculiar form in that it consists of an interrogation of the witness which is ultimately sworn to by him as correct. He only swears to the truth of his answers. There is no sworn evidence in the affidavit as to any of the contents of this book. The deponent merely swears that Mr. Freeman told him that there were certain statements in a book and asked him whether such statements were true and that the deponent swore that those statements were not true. None of this constitutes any evidence as to what the statements in the book in fact were.

MR. FREEMAN: If the Tribunal please, this book by TANAKA is filed with the clerk and has been for some time. I am perfectly willing to offer it in evidence. It is true the purpose of this is to attack the credibility of the witness TANAKA. I am not sure but I think this book may have been offered in evidence before but I haven't been able to ascertain that fact. But certainly as to the correctness of my quotations of the book the book is available for the prosecution to ascertain that fact and has been for some time and I am perfectly willing to offer the book in evidence.

ACTING PRESIDENT: The objection is sustained.

1 COLONEL MORNANE: If the Tribunal pleases, my
2 next objection is to the next question and answer. Here
3 the interrogator has sought to get from the witness a
4 statement as to his view of the public reputation of
5 the witness TANAKA as to reputation and honesty.

6 ACTING PRESIDENT: That is covered by our
7 previous ruling. Objection sustained.

8 COLONEL MORNANE: The balance of the affidavit
9 is objected to on the grounds that it has no probative
10 value. In answer to questions the witness gives a
11 statement not of his knowledge but only of his belief
12 such as "I believe it was."

13 MR. FRITZMAN: If the Tribunal pleases, in reply
14 to the objection General ABE must have been in a
15 position to know the function of the Military Affairs --
16 I mean the Military Service Bureau and I respectfully
17 submit that it is very important that the Court know
18 under whom the Kempeitai was and that has never been
19 actually established before the Tribunal yet.

20 ACTING PRESIDENT: Objection sustained.

21 Outside the parts objected to, the document
22 is admitted in evidence.

23 CLERK OF THE COURT: Defense document 2732 will
24 receive exhibit No. 3526.

25 (Whereupon, the document above

referred to was marked defense exhibit
1 No. 3526 and received in evidence.)
2

3 MR. FREEMAN: If the Tribunal please, on page 6
4 of the affidavit, next to the last question and answer,
5 beginning "At that time, General, the position SATO
6 occupied," and so forth, that question and answer is
7 by agreement stricken from the affidavit.

8 On page 7 the last two questions and answers
9 are stricken from the affidavit by agreement.
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with these deletions, I will read exhibit

1 3526:

2 "Q Will you give us your name, age, and the
3 army rank you attained?

4 "A My name is Nobuyuki ABE. I am 73 years old.
5 I was full general at the time of my retirement.

6 "Q Were you a full general at the termination
7 of hostilities?

8 "A I was a full general at that time, but I
9 wasn't active then.

10 "Q When did you retire from active duty?

11 "A I became inactive in 1936, the time the
12 February 26 incident occurred.

13 "Q Will you please give me the dates that you
14 were War Vice-Minister?

15 "A I became Vice-Minister of War in 1928.

16 "Q Were you ever State Minister, and if so when?

17 "A I was appointed to the State Minister with-
18 out portfolio in 1930; from June to December of the
19 same year.

20 "Q Did you ever occupy the position of Prime
21 Minister, and if so, when?

22 "A I was appointed to Prime Minister from
23 August of 1939 to January of 1940, four full months.

24 "Q On the day that the Third KONOYE Cabinet

1 fell, did Colonel SATO visit your home?

2 "A Yes, he did.

3 "Q What was the purpose of his visit, if you
4 remember?

5 "A He came to visit me to tell me about the
6 situation of army circle.

7 "Q Are you well acquainted with SATO?

8 "A Yes, I know him well.

9 "Q How long have you known him?

10 "A He is from my native place, and I have
11 known him since he entered war college as a first
12 lieutenant.

13 "Q When was that, about when?

14 "A About thirty years ago.

15 "Q Did Colonel SATO discuss or make any
16 recommendation as to who should succeed Prince KONOYE
17 as Prime Minister?

18 "A Yes, he conveyed a message to me from the
19 army.

20 "Q By army, do you mean War Minister TOJO and
21 the General Staff?

22 "A The General Staff has nothing to do with
23 politics.

24 "Q Then is it correct to assume that Colonel
25 SATO brought a message from the War Minister?

"A Yes, I believe so.

1 "Q Do you recall what rank SATO had in the army
2 when he made that visit?

3 "A He was a colonel then.

4 "Q What was the message Colonel SATO conveyed
5 to you?

6 "A His message was that since the KONOYE
7 Cabinet fell the army deemed it desirable to recommend
8 that an Imperial prince become Prime Minister.

9 "Q Did Colonel SATO, in his message from the
10 War Minister, suggest to you the name of the Imperial
11 prince, and if so, who?

12 "A Yes, he did mention the prince's name.

13 "Q What was the name mentioned?

14 "A Prince HIGASHIKUNI.

15 "Q Did Colonel SATO at any time during his
16 visit mention the name of War Minister TOJO for the
17 position of Prime Minister?

18 "A No.

19 "Q Did you attend a conference on about October
20 17 to recommend a successor to Prince KONOYE?

21 "A Yes, I did attend.

22 "Q Who was present at that meeting, if you
23 recall?

24 "A I believe there were Baron WAKATSUKI and

1 and Admiral OKADA and Mr. HIROTA and General HAYASHI
2 and Baron HIRANUMA, Admiral YONAI, and Mr. HARA, the
3 President of the Privy Council, and Marquis KIDO,
4 Keeper of the Privy Seal, and Viscount KIOURA, and
5 I. Mr. KIDO, Keeper of the Privy Seal, presided as
6 chairman.

7 "Q Was the name of the Imperial Prince HIGA-
8 SHIKUNI considered for Prime Minister at that con-
9 ference?

10 "A The prince's name was mentioned by somebody.

11 "Q Do you recall who mentioned the prince's
12 name?

13 "A Count KIOURA mentioned the name of Prince
14 HIGASHIKUNI.

15 "Q Did you express any opinion to Colonel
16 SATO relative to Prince HIGASHIKUNI becoming Prime
17 Minister?

18 "A I did not express my opinion relative to
19 this man to Colonel SATO.

20 "Q Did you express any opinion at the con-
21 ference relative to Prince HIGASHIKUNI becoming Prime
22 Minister?

23 "A No, I expressed no opinion as regards
24 recommendation of Prince HIGASHIKUNI.

25 "Q In other words, General ABE, you paid

1 absolutely no attention to the message brought you by
2 Colonel SATO?

3 "A I just listened to his story, and nothing
4 he said affected my opinion.

5 "Q At this conference on October 17, who was
6 recommended for Prime Minister?

7 "A We finally came to the conclusion to
8 recommend War Minister TOJO as Prime Minister.

9 "Q General, did Colonel SATO at any time during
10 that visit mention War Minister TOJO's name as an
11 individual who should be made Prime Minister?

12 "A Not once did he even mention his name.

13 "19 February 1947.

14 "Q General, continuing our questions from
15 February 12 relative to the conference in which TOJO
16 was recommended for Prime Minister, who suggested
17 TOJO be recommended for Prime Minister?

18 "A I believe it was Mr. KIDO who recommended
19 TOJO's name, as in record.

20 "Q You also stated that there were eight other
21 persons present at this conference besides yourself?

22 "A Yes, that is true.

23 "Q Did any member of the conference lodge an
24 objection to the recommendation of TOJO for Prime
25 Minister?

1 "A There was no person against having General
2 TOJO as Prime Minister absolutely -- there was no
3 absolute objection.

4 "Q General, having been an officer in the
5 army and at one time Prime Minister, are you
6 familiar enough with the War Ministry to state
7 whether or not the bureaus within the War Ministry
8 were on an equal level as to exercising authority?

9 "A Yes, it is fundamentally true.

10 "Q General, do you know TANAKA, Ryukichi?

11 "A Yes, I know him.

12 "Q How long have you known him?

13 "A I know him since he entered war college as
14 a lieutenant.

15 "Q About how long ago was that?

16 "A Oh, about thirty years.

17 "Q General, as you know, TANAKA has been used
18 by the prosecution as a witness in this trial?

19 "A Yes.

20 "Q I now intend to read a question asked TANAKA
21 and his answer. On January 22 of this year on direct
22 examination General TANAKA was asked this question:

23 "And do you remember General SATO telling
24 you anything about the matter in which TOJO became

1 Prime Minister?'

2 " And General TANAKA answered in this manner,
3 and I quote:

4 " After War Minister TOJO became Prime
5 Minister he came to my office and told me about the
6 matter. It was always the stand of the Military
7 Service Bureau of the War Ministry that the army,
8 outside of the War Minister himself, should not
9 participate or interfere in politics; and I think
10 that SATO's visit to me was in connection with this
11 matter by way of excuse -- to explain his position
12 in the matter -- and he told me that he had seen the
13 two veteran generals, ABE and HAYASHI, to whom he
14 said in speaking of the trend within the army itself,
15 that unless TOJO is War Minister -- was made Prime
16 Minister -- it would be difficult to control the army.
17 I listened silently to his words on this matter.'

18 " Did Colonel SATO make any statement about
19 TOJO becoming Prime Minister and if he were not it
20 would be difficult to control the army?

21 " A I never heard of it.

22 " Q Was there ever any indication that there
23 would be trouble with the army unless TOJO was ap-
24 pointed Prime Minister? Was there ever any indication
25 to you?

NINOMIYA

DIRECT

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"A No, never."

I next call the witness NINOMIYA, Yoshikiyo,
whose affidavit is defense document 2765, and is an
answer to General TANAKA's testimony (record, page
14,287) that protests came direct from the Foreign
Office to the Military Affairs Bureau and replies to
same were prepared in the Military Affairs Bureau.
This affidavit, coupled with Colonel NISHIURA's
testimony (record, page 32,960), is offered to refute
the testimony of TANAKA relative thereto.

Y O S H I K I Y O N I N O M I Y A, called as a
witness on behalf of the defense, being first
duly sworn, testified through Japanese inter-
preters as follows:

DIRECT EXAMINATION

BY MR. FREEMAN:

Q Colonel, will you give us your name and
address?

A My name, NINOMIYA, Yoshikiyo; and my address,
42 Hommaracho, Shinjuku-ku, Tokyo.

MR. FREEMAN: May the witness be shown
defense document 2765.

(Whereupon, a document was
handed to the witness.)

1 Q Is that your affidavit, and have you signed
2 it?

3 A Yes.

4 Q Are the contents therein true and correct?

5 A They are true and correct.

6 MR. FREEMAN: I offer in evidence defense
7 document 2765.

8 ACTING PRESIDENT: It will be admitted in
9 evidence.

10 CLERK OF THE COURT: Defense document 2765
11 will receive exhibit No. 3527.

12 (Whereupon, the document above
13 referred to was marked defense exhibit
14 No. 3527 and received in evidence.)

15 MR. FREEMAN: Omitting the formal parts,
16 I will read into evidence exhibit 3527:

17 "Q Were you formerly a member of the armed
18 forces of Japan and if so, what rank did you hold?

19 "A I was a Colonel in the Japanese Army, and
20 held a position in the War Ministry.

21 "Q Were you ever attached to the Military
22 Affairs Bureau of the War Ministry and if so, in
23 what capacity?

24 "A Yes, I was in the Military Affairs Bureau of
25 the War Ministry as a Staff Member, and became Chief

MINOMIYA

DIRECT

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1 of the Military Affairs Section in December 1942,
2 remaining in that position until July 1944.

3 "Q During the time you were Chief of the Mili-
4 tary Affairs Section who was your immediate superior?

5 "A Major General SATO, Kenryo was my immediate
6 superior.

7 "Q Will you briefly state the functions and
8 duties of your section?

9 "A The chief function of my section was to
10 handle matters dealing with other ministries and
11 matters relating to international agreements and
12 treaties.

13 "Q On January 3, 1947 (record, page 14,287),
14 TANAKA, Ryukichi testified that protests relative to
15 the treatment of prisoners of war were sent from the
16 Foreign Office to the War Ministry and then to the
17 Military Affairs Section of the Military Affairs
18 Bureau. Do you yourself recall having received such
19 protests?

20 "A No,

21 "Q The witness TANAKA also testified: 'Replies
22 to be made to the authorities outside of the war
23 office were prepared in the Military Affairs Section
24 of the Military Affairs Bureau.' Is this true?

25 "A That is not so. All replies relating to

NINOMIYA

DIRECT

34,414

1 prisoners of war were made by the Prisoner of War
2 Information Bureau.

3 "Q Was the Prisoner of War Information Bureau
4 already established when you became head of the
5 Military Affairs Section?

6 "A Yes, it was already established.

7 "Q Who was Chief of the Prisoner of War
8 Information Bureau, if you know?

9 "A The Chief of the Prisoner of War Informa-
10 tion Bureau at that time was Lt. General UYEMURA,
11 Mikio.

12 "Q Do you know generally what the duties of
13 the Prisoner of War Information Bureau were?

14 "A The function of the Prisoner of War Minforma-
15 tion Bureau was to handle matters relating to prisoners
16 of war.

17 "Q Then the protests from allied powers received
18 by the Foreign Office relative to treatment of prison-
19 ers of war would be forwarded to the Prisoner of War
20 Information Bureau?

21 "A Yes.

22 "Q Colonel, if all these protests relative to
23 the treatment of prisoners of war had passed through
24 your section, as General TANAKA testified, you would
25 have known it, would you not?

NINOMIYA

DIRECT

34,415

1 "A Yes.

2 "Q But you do not recall ever having received
3 these protests?

4 "A No.

5 "At Tokyo, Japan, this 15th day of October, 1947."

6 You may cross-examine.

7 ACTING PRESIDENT: Colonel Mornane.

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CROSS-EXAMINATION

1 BY COLONEL MORNANE:

2 Q Witness, do you remember when General TANAKA
3 left the War Ministry?

4 A I think it was around July or August, 1942.

5 Q He has given evidence here that it was Sep-
6 tember, I think. Would you disagree with that?

7 A No, I have no exact recollection.

8 Q Were you actually in the War Ministry at the
9 time when he left?

10 A When -- do you mean when General TANAKA
11 left the War ministry?

12 Q Yes.

13 A Yes, I was in the War ministry.

14 Q Were you not, between April and December of
15 '42, carrying out the duties of private secretary to
16 TOJO in his capacity as Prime Minister?

17 A Private secretary to General TOJO as War
18 Minister, not Prime Minister.

19 Q And, as private secretary to General TOJO
20 as War Minister, you were not in the Military Affairs
21 Section or the Military Affairs Bureau?

22 A No, I was not.

23 Q Did you see any protests in your capacity as
24 private secretary to TOJO?

A I have no recollection.

1 Q And at that time you wouldn't see the Military
2 Affairs Bureau files or the Military Affairs
3 Section files.

4 A No, I did not.

5 Q And, therefore, you cannot say, as between
6 April, '42 and the time that TANAKA left the War
7 Ministry, whether any protest went to the Military
8 Affairs Section or not.

9 A No, I cannot.

10 Q But the Military Affairs Bureau dealt with
11 lots of matters concerning prisoners of war, did it
12 not?

13 A Matters relating to prisoners of war were
14 handled by the Prisoners of War Information Bureau.

15 Q Was it not the practice to send copies at
16 least, if not the originals, to the Military Affairs
17 Bureau?

18 A I do not think it was customary for copies
19 necessarily to be sent to the Military Affairs Bureau.

20 Q Wasn't it the usual procedure to send either
21 the original document for notation or copies of the
22 document?

23 A I think that was the usual procedure when
24 something was being sent out.

Q That is, all replies, then, to protests,
1 when they went out, would be seen by the Military
2 Affairs Bureau.

A No, it would not mean that it would see all of them.

6 Q Well, now, you, yourself, in your capacity
7 in the Military Affairs Section, before becoming
8 private secretary to the War Minister, actually
9 handled certain matters regarding prisoners of war,
10 did you not?

A. No, there was no case of handling such matters in my capacity in the Military Affairs Section.

13 Q Did you ever see any in the Military Affairs
14 Section?

15 A I have no exact recollection.

16 COLONEL MORNANE: May the witness be shown
17 Item 28 of exhibit 3367?

18 (Whereupon, a document was handed
19 to the witness.)

THE MONITOR: Colonel Mornane, will you tell us the IPS document No., sir?

23 COLONEL MORNANE: Yes, the IPS document No.
24 is 1552, Item 23.

THE MONITOR: Thank you very much.

Q Now witness, your name appears on that

document, does it not?

1 A Yes, my name appears, and so does the name
2 of the Chief of the Military Affairs Bureau, SATO;
3 but in those cases, seal by proxy appears.

4 Q That is not your seal at all on the document?

5 A It appears that a staff member of the Bureau
6 by the name of YAMAZAKI impressed the seal by proxy
7 both after SATO's name and mine.

8 COLONEL MORNANE: If the Tribunal please,
9 I have omitted to put this document in, but I will
10 just get it qualified first.

12 Q Witness, you recognize that as an official
13 document of the War Ministry, do you not?

14 A Yes, this is an official document.

15 COLONEL MORNANE: If the Tribunal pleases, I
16 tender Item 28 of exhibit 3367, which is already in
17 for identification. It is a draft of an answer to
18 the Foreign Minister, dated the 25th of March, 1942.
19 I propose to read only the last paragraph of it.

20 ACTING PRESIDENT: It is admitted in evidence.

21 CLERK OF THE COURT: Prosecution document
22 1552, Item 28, will receive exhibit No. 3528.

23 (Whereupon, the document above
24 referred to was marked prosecution exhibit
25 No. 3528 and received in evidence.)

COLONEL MORNANE: Reading the last paragraph:

"In view of the fact, however, that Japan
is on her own part providing facilities, too, and
treating properly her prisoners of war, in case the
United States of America expresses her intention to
endeavor sufficiently to give proper treatment to
Japanese not only in the United States of America but
also in the countries in America which have declared
war upon Japan and have severed their diplomatic
relations with her, the above-mentioned Article 86
will be applied mutatis mutandis as the occasion may
demand, and the representative of Switzerland will be
permitted to pay visits. As for the enforcement
details, our intention is to investigate each case
and give permission."

Q That is correct, is it not, witness?

MR. FREEMAN: If the Tribunal please, I
respectfully request that prosecution be asked to read
the introductory part of this document where it says
"Office which issued the document, War Service
Section."

ACTING PRESIDENT: We think you should read
paragraphs 1 and 2 also.

COLONEL MORNANE: Would the Tribunal prefer
me to read the whole of the document? It may be more

NINOMIYA

CROSS

34,421

convenient.

1 ACTING PRESIDENT: You can read it after
2 lunch. We will now adjourn until one-thirty.

3 (Whereupon, at 1200, a recess
4 was taken.)
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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at
1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

ACTING PRESIDENT: Colonel Mornane.

YOSHIKIYO NINOMIYA, called as a witness on behalf of the defense, resumed the stand and testified through Japanese interpreters as follows:

13 COLONEL MORNANE: If the Tribunal please,
14 I now propose to read the omitted parts of exhibit
15 No. 3528:

16 "Defense

17 "War Ministry - Mar 25, 1942 - Section"

18 I think that should read: "Section, Defense.

19 "The Office which issued the document: War

20 Service Section/Gummuka/

"The Subject": I

21 "The Subject: Requests of the U. S. Govern-
22 ment for Visits to its Prisoners of War and Detained
23 Non-Combatants.

25 "Minister: Delegated by the Minister.

"Bureau Chief: Deputy signed by SATO.

NINOMIYA

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34,423

1 "Section Chief: Deputy signed by NINOMIYA
2 "Section Member: Signed by YAMAZAKI
3 "Copyist: Signed by UCHIDA
4 "Correlated: Chief of Military Service
5 Bureau: signed by KAMIMURA
6 "Section Chiefs:
7 "War Affairs: Signed by SANADA
8 "Defense: Signed by TSUBOI
9 "POW Information: YAMAZAKI
10 "General Staff Headquarters: 14th Section
11 "(Mil. Asiatic Secret)
12 "Vice Minister's Answer to the Foreign
13 Vice Minister.
14 "I beg to inform you that the following is
15 my (or/our) opinion on the above-mentioned subject
16 which you asked me about by Jo 3 Secret Go No. 370
17 of Feb. 28th.
18 "Article 86 of the Geneva Treaty on
19 prisoners of war in 1929 cannot be accepted and
20 applied wholly/completely or exactly as it is/."
21 I have already read the concluding para-
22 graph.
23

24 CROSS-EXAMINATION

25 BY COLONEL MORNANE (Continued):

Q Now, Witness, the date of this document is

the 25th of March, 1942. I suggest to you that SATO did
1 not become Chief of the Military Affairs Bureau until
2 the 20th of April, 1942, is that correct?

3 A I do not recall the exact date, but, gener-
4 ally, it was about that time.

Q And, I suggest to you that SATO has signed
this document as Deputy for the then Bureau Chief,
the accused MUTO.

A Yes, I think so.

Q And, that you have signed the document as
10 Deputy for the then Chief of the Military Affairs
11 Section, SATO, who was acting as Chief of the Bureau,
12
13 is that correct?

A Yes, I think so.

15 Q And, that is the document clearly relating
16 to prisoners of war.

17 A Yes.

18 COLONEL MORNANE: Now, I'd like the witness
19 to be shown Item 51 of exhibit 3367 for identification.

20 (Whereupon, a document was handed
21 to the witness.)

22 Q Now, Witness, do you recognize that as an
23 official document of the War Ministry?

24 A There is no seal on this document, but from
25 what I have observed at the top of the document, it

NINOMIYA

CROSS

34,425

1 appears to be a document in the files of the
2 Prisoner of War Bureau.

3 COLONEL MORNANE: I tender this document,
4 if the Tribunal please. It consists of letters
5 written on the 23rd of June, 1942, from the Vice-
6 Foreign Minister to the President of the Prisoner
7 of War Intelligence Bureau and to the Vice-Minister
8 of War, and draft replies from the President of the
9 Prisoner of War Intelligence Bureau and the Vice-
10 Minister for War.

11 ACTING PRESIDENT: It will be admitted in
12 evidence.

13 MR. FREEMAN: If the Tribunal please --

14 CLERK OF THE COURT: Prosecution document

15 1552 --

16 ACTING PRESIDENT: Wait a minute.

17 MR. FREEMAN: I haven't seen the document,
18 but I object to it on the ground that it hasn't
19 been properly identified as to having anything to
20 do with the accused SATO.

21 ACTING PRESIDENT: You are a little bit
22 late in your objection.

23 MR. FREEMAN: I'm sorry, but I thought I
24 had a copy, but he had it under a whole pile of
25 them, and I picked up one, and it was the wrong one.

1 I'm sorry.

2 ACTING PRESIDENT: Objection overruled.

3 It will be admitted in evidence.

4 CLERK OF THE COURT: Prosecution document
5 1552, Item 51, will receive exhibit No. 3529.

6 (Whereupon, the document above
7 referred to was marked prosecution exhibit
8 No. 3529.)

9 COLONEL MORNANE: I do not propose to read
10 this document unless the Tribunal wishes me to do so.

11 BY COLONEL MORNANE (Continued):

12 Q Witness, you will notice on that document
13 "Section Chief" and following that "War Affairs
14 Section, Military Affairs Section." Do you see that?
15 You have the document there, Witness, haven't you?

16 A I do not have the document.

17 (Whereupon, a document was handed
18 to the witness.)

19 A (Continuing) It is so written here, but
20 the Bureau Chief referred to here is the Chief of
21 Bureau in the Foreign Office.

22 Q That is so. Witness, you will notice next
23 to the date, 29 June 1942, "Joint Bureau Chief."

24 A Well, it doesn't say so in -- it says,

25 "Bureau and Section in Charge," but it does not say,

1 "Chief of Bureau or Section in Charge," in this
2 document. It is indicated that the department in
3 charge is the Prisoner of War Information Bureau.

4 Q That is so, Witness, but it is also
5 indicated that the joint responsibility is attached
6 to the Bureau Chief, does it not?

7 A There is nothing written in so far as it
8 relates to the Chief of the Bureau. After the
9 Section it says -- after "Chief of Section," the
10 departments indicated are the Military Affairs
11 Section, the Military Administration Section, and
12 the Defense Section.

13 Q And, that would indicate to you that the
14 document had gone through their hands.

15 A Well, so it appears, but there are no seals
16 to indicate that it did. It may be the Foreign
17 Office thought that way.

18 Q And, that document itself relates to the
19 visit of representatives of the International Red
20 Cross Committee, representatives of countries pro-
21 tecting interests of enemy countries to prisoners of
22 war, and others, is that so?

23 A Yes.

24

1 Q You may hand that document back.

2 Now, I suggest to you that apart from
3 similar documents to those, that many documents relating
4 to prisoners of war went through the Military Affairs
5 Bureau or the Military Affairs Section, the section
6 of the bureau, is that so?

7 A Upon seeing this document I notice that there
8 is no indication on the face of this document showing
9 that anybody in the Military Affairs Section or the
10 Military Administration Section actually saw the docu-
11 ment. But it is clearly indicated by the seals affixed
12 on this document that the related officials of the
13 Prisoners of War Information Bureau saw the document.
14 And so I cannot say actually who in the Military Affairs
15 Section or the Military Administration Section saw this
16 document, because actually this document only shows
17 that those in the Prisoners of War Information Bureau
18 saw the document as indicated by the seals of these
19 officers.

20 Q But the words "Military Affairs Section"
21 indicate to you that it was intended to be seen by
22 the Military Affairs Section, do they not?

23 A Perhaps the other party thought that way.

24 Q Well, now, have a look at exhibit 1967.

25 COLONEL MORNANE: Could the witness be shown

exhibit 1967? It is already in evidence.

1 (Whereupon, a document was handed
2 to the witness.)

3 Q Now, Witness, that is a request from the
4 Chief of General Staff, Eastern District Army, to the
5 Minister of War for the employment of prisoners of war
6 in certain works, is it not?

7 A Yes, it appears that way.

8 Q And that contains, on the first page, I think,
9 in the right-hand margin the receipt of the Military
10 Affairs Section of the War Ministry on the 3rd of
11 October 1942.

12 A Yes, there is a receipt of the Military
13 Administration Section.

14 Q That is part of the Military Affairs Bureau.

15 A Yes.

16 Q That, of course, indicates that the Military
17 Administration Section had that document in their
18 custody.

19 A No, one cannot tell by this document that that
20 is so, because it bears the seal of the Prisoners of
21 War Administration Bureau and a seal.

22 THE MONITOR: Japanese court reporter.

23 (Whereupon, the Japanese court reporter
24 read.)

NINOMIYA

CROSS

314,4830

1 THE INTERPRETER: Addition: "And the seal
2 appearing at the top is also a seal affixed by some
3 one in the Prisoners of War Administration Bureau."

4 Q. But leaving out the Prisoners of War
5 Administration Bureau, there is a stamp showing the
6 receipt by the Military Affairs Section.

7 A. Yes, a seal of the Military Administration
8 Section.

9 COLONEL MORNANE: If the Tribunal please, I
10 have quite a number of other exhibits which are already
11 in evidence, which bear either the Military Affairs
12 Bureau or the Military Affairs Section on the face of
13 them during the year 1942. I don't propose to put
14 them to the witness, because the Tribunal is already
15 aware of them. I think enough has been submitted
16 already to lay the foundation for a question asking the
17 witness whether there was any change of policy in
18 December of '42, when he became Chief of the Military
19 Affairs Section.

20 MR. FREEMAN: If the Tribunal please.

21 ACTING PRESIDENT: Mr. Freeman.

22 MR. FREEMAN: I respectfully submit the
23 prosecution should follow the usual procedure and
24 indicate the documents they have reference to.

25 ACTING PRESIDENT: I understand that that is

what he was going to do.

1. COLONEL MORNANE: I will do that, if it
2. please the Tribunal.

3. Exhibit 1968, 1973, 1974, 1975, 1976 and
4. 3129.

5. ACTING PRESIDENT: It might help if you gave
6. us the subject matter of each one of those.

7. COLONEL MORNANE: Yes, if it please the
8. Tribunal.

9. Exhibit 1968 is a message, dated the 1st of
10. September, from the Commander of the Taiwan Army to the
11. Minister, advising him of the arrival of a number of
12. war prisoners at Formosa, Taiwan.

13. Exhibit 1973 is a telegram, dated the 1st of
14. March, 1942, from the Chief of Staff of the Korean
15. Army to the Vice-Minister of War, requesting that
16. prisoners of war be sent to Korea.

17. Exhibit 1974 is the draft of a notice to the
18. Commander in Chief of the Southern Area Army, dated
19. the 16th of March, 1942, directing the handing over
20. of certain prisoners of war at Singapore. It states
21. that the originating section is the War Affairs Section
22. of the Military Affairs Bureau.

23. Exhibit 1975 is a report from the Chief of
24. Staff of the Korean Army to the Vice-Minister of War,
25.

1 dated the 13th of October, 1942, reporting the reaction
2 of the public on the arrival of British prisoners of
3 war.

4 Exhibit 1976 is a report from the accused
5 ITAGAKI to TOJO, setting out the various prisoners of
6 war regulations which were being enforced in Korea on
7 the 4th of September, 1942.

8 And Exhibit 3129 is a report from the Military
9 Police Commander, NAKAMURA, Akito, to Chief of General
10 Staff SUGIYAMA, sending reports of the investigation of
11 the Loolittle Fliers. It is dated the 26th of May,
12 1942.
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Now, witness, in view of the various documents which you have seen, you realize that, at all events, in 1942, while you were private secretary to the War Minister, quite a number of POW documents went through the hands of the Military Affairs Bureau; that is so, is it not?

MR. FREEMAN: If the Tribunal please, I object to the form of the question, and the substance of it should give the answer. He is asking this witness about the Military Affairs Bureau when he, the examiner, states himself he was not there. Clearly the question is outside the scope of the affidavit.

Further, the documents he has reference to have nothing to do with protests and replies which the affidavit concerns, and exhibit 3528, which has been accepted in evidence, has to do with interpretation of the Geneva Treaty, which was properly a function of the Military Affairs Section, and no objection was offered to it. The other documents in no way relate to this affidavit.

ACTING PRESIDENT: As I remember the testimony, this witness stated that the Military Affairs Bureau had nothing to do with prisoner-of-war matters.

MR. FREEMAN: He stated that Prisoner-of-war Information Bureau dealt with prisoner-of-war matters.

1 ACTING PRESIDENT: That is the converse of
what I just said.

2 The question seems to be proper. The objec-
3 tion is overruled.

4 BY COLONEL MORNANE:

5 Q Do you remember the question, "itness, or
6 would you like it repeated?

7 A May I have it repeated?

8 (Whereupon, the last question
9 was read by the official court reporter.)

10 MR. FREEMAN: If the Tribunal please, that
11 question is simply asking the witness to comment on
12 the evidence. These documents are already in evidence.

13 ACTING PRESIDENT: The Tribunal has ruled.

14 We require no more argument.

15 Answer the question, Witness.

16 THE WITNESS: Some documents came to the
17 Military Affairs Bureau.

18 BY COLONEL MORNANE:

19 Q Earlier in the cross-examination you told me
20 you didn't recall during your tenure of office as
21 Chief of the Military Affairs Section ever having
22 received any documents relating to prisoners of war.

23 Is that so?

24 A From the documents I have seen, most of them

1 were documents relating to a period during which I
2 was not in the Military Affairs Section.

3 Q Well, then, when you took over charge of
4 the Military Affairs Section was there any change of
5 policy, to your knowledge, to stop documents relat-
6 ing to prisoners of war being sent through the Mili-
7 tary Affairs Section?

8 A No, I don't think there was any special
9 change.

10 Q Now, evidence has been given before this
11 Tribunal as to a question and answer by the accused
12 TOJO with regard to this matter. I will read it to
13 you and ask you to tell me whether you believe it is
14 correct.

15 COLONEL MORNANE: Language Section, it is
16 exhibit 1983-A, on page 2, the fourth question and
17 answer.

18 MR. FREEMAN: If the Tribunal please, I
19 object to this method of trying to verify another
20 accused's interrogation. If he has a question to put
21 to the witness, I suggest that he put it.

23 ACTING PRESIDENT: Objection overruled.

24 BY COLONEL MORNANE:

25 Q The question was: "And the clerical work which
 was done with respect to the prisoners in Tokyo was

directly under the Military Affairs Bureau, was it
1 not?" and the answer from the accused TOJO: "It
2 was done by the Military Affairs Bureau. The rules
3 were the result of conferences between the Chiefs
4 of the Military Affairs Bureau and the General Staff."

5 Do you say the accused TOJO is wrong in giv-
6 ing that answer?

7 A May I have the question repeated again, please?

8 THE MONITOR: Japanese court reporter.

9 (Whereupon, the Japanese court
10 reporter read.)

11 THE WITNESS: I deny that.

12 Q Well, there is just one other question, Wit-
13 ness.

14 In your evidence you stated that protests re
15 treatment of prisoners of war would be forwarded to
16 the Prisoner-of-War Information Bureau. Do you know
17 yourself of any specific protests?

18 A I have no recollection.

19 Q And you cannot say whether any protests were
20 in fact forwarded to the Prisoner-of-War Information
21 Bureau?

22 A Having long been in the service of the
23 War Office myself, I can say what kind of work --
24 what kind of activities the POW Information Bureau

1 was actually engaged in; and although I cannot say
2 with certainty whether everything was received by
3 the Prisoner-of-War Information Bureau, I can say
4 from my own personal experience that nearly all
5 matters relating to the subject were addressed to the
6 Prisoner-of-War Information Bureau.

7 COLONEL MORNANE: That concludes the cross-
8 examination, if the Tribunal pleases.

9 MR. FREEMAN: No redirect. May the witness
10 be excused?

11 ACTING PRESIDENT: He is excused on the usual
12 condition.

13 (Whereupon, the witness was excused.)

14 MR. FREEMAN: I next call the witness OTSUKI,
15 Akira, whose affidavit is defense document 2664.

16 My understanding is that the prosecution does
17 not wish to cross-examine him. If that is true there
18 is no need of him being brought in.

19 ACTING PRESIDENT: Not unless you have some
20 additional questions to ask him.

21 MR. FREEMAN: This affidavit, coupled with
22 the testimony of Colonel NISHIURA, record page 32,960
23 to 61 is offered to refute the testimony of General
24 TANAKA, record page 29,051, relative to there being
25 within the Military Affairs Bureau junior officers

1 who wished the extreme penalty to be given the Doo-
2 little fliers.

3 ACTING PRESIDENT: Do you tender the affi-
4 davit?

5 MR. FREEMAN: I tender defense document
6 2664.

7 ACTING PRESIDENT: Colonel Mornane.

8 COLONEL MORNANE: If the Tribunal pleases,
9 our Language Section have indicated to us that there
10 are fairly numerous mistakes in the translation of
11 the Japanese affidavit. I would suggest that after
12 the affidavit is marked and before it is read it be
13 submitted to the Language Arbiter, where any correc-
14 tions could be made, and that in the meantime my
15 friend could proceed with some subsequent document.

16 MR. FREEMAN: That is agreeable to me.

17 ACTING PRESIDENT: It will be admitted in
18 evidence.

19 CLERK OF THE COURT: Defense document 2664
20 will receive exhibit No. 3530.

21 (Whereupon, the document referred
22 to was marked defense document 3530 and
23 received in evidence.)

24 ACTING PRESIDENT: It is also referred to
25 the Language Section.

1 MR. FREEMAN: I next offer in evidence defense
2 document No. 2661, which is the affidavit of MATSUMURA,
3 Shuitsu.

4 Reference is made to exhibits Nos. 270 and
5 2235, speeches which the accused SATO was supposed
6 to have delivered before a policemen's conference in
7 August, 1938. This affidavit explains the circum-
8 stances under which it was the usual custom for such
9 releases to be made from the Press Club of the Infor-
10 mation Bureau.

11 ACTING PRESIDENT: The document will be
12 admitted in evidence.

13 CLERK OF THE COURT: Defense document 2621
14 will receive exhibit No. 3531.

15 ("hereupon, the document above
16 referred to was marked defense exhibit
17 3531 and received in evidence.)

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1 MR. FREEMAN: I will omit the formal part and
2 read exhibit 3531:

3 "2. The Press Section of the War Office was
4 originally started to look after the Press Club in the
5 compound of the War Office and its main duty was to
6 provide such news materials concerning war administra-
7 tion as laws and ordinances, estimates, announcements of
8 changes of personnel affairs, exercises held on the
9 military memorial day, and so forth. In 1938, its name
10 was changed to 'Information Bureau of the War Office.'
11 But the nature of the business was naturally the same as
12 that of the Press Section. As above-mentioned, the
13 Information Bureau of the War Office was not a section
14 recognized as a government organization, but it was
15 coordinate with the Army Affairs Section, Military Af-
16 fairs Section, and so forth of the Military Affairs
17 Bureau and the Chief and the members were under command
18 and supervision of Chief of the Military Affairs Bureau
19 under the jurisdiction of the War Minister.

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1 "3. When the Imperial General Headquarters
2 was organized at the outbreak of the China Incident in
3 1937, the Army Press Bureau of Imperial GHQ was estab-
4 lished simultaneously. Its chief duty consisted in
5 announcement of the state of military operations, that
6 is, matters concerning military command, so its members
7 including bureau chiefs were under superintendence and
8 command of the Chief of General Staff and was directed
9 by the Chief of the 2nd Division of the General Staff
10 Office.

11 "However, most members of the Press Bureau of
12 the War Ministry had been concurrently appointed as
13 members of the Army Press Bureau of IGHQ.

14 "4. Therefore, to speak exactly, there were
15 two kinds of announcements of the army, namely, the one
16 announced by the Information Bureau of the War Ministry
17 and the other by the Press Bureau of Imperial GHQ.

18 "So the matters concerning military command such
19 as announcement of state of military operations, etc.,
20 was taken care of by the latter while the announcement
21 of ordinances or personnel affairs by the former.

22 "To explain more minutely, that which was pre-
23 pared by the section in charge to be announced by news-
24 papers was first sanctioned by the related bureaus and
25 then approved by the Vice-Minister or Minister of War or

1 the Deputy Chief or the Chief of the General Staff, as
2 the case may be. It depended on the degree of importance
3 or the nature of the matter concerned, that is, whether
4 it was one of military administration or of military
5 command.

6 "6. After being so processed, the said announce-
7 ment was made at the Press Club.

8 "5. Furthermore, the principle of conducting
9 the public opinion was decided at the cabinet conference
10 and in accordance with the principle so decided each
11 agency took charge of its execution.

12 "6. To supervise the matters military, particulars
13 of prohibition from newspaper announcement were decided
14 according to the provisions concerning military secrets
15 notified by the Minister and censorship was conducted
16 in accordance with the Minister's notice.

17 "6. Since the outbreak of the China Incident,
18 the personnel of the Press Bureau and those of the
19 Military Affairs Section had frequently given lectures
20 for the purpose of explaining the military operations
21 already conducted, the state of occupied territories, the
22 general situation, extermination of rumors and enhance-
23 ment of national spirit.

24 "7. On this 22nd day of May, 1947."

25 I next offer in evidence defense document

1 620-A-1, which is that portion of the interrogation of
2 the accused SATO, which the prosecution did not offer
3 in evidence when it read exhibit No. 2238 to the Court.
4 The matters contained herein give a more complete picture
5 of SATO's interrogation.

6 This document is already in evidence as ex-
7 hibit 2238.

8 ACTING PRESIDENT: You mean this document that
9 you are presenting?

10 MR. FREEMAN: It is his interrogation, but this
11 is the portion that has not been read. His interrogations
12 were offered in evidence for identification only,
13 2238, and a portion of that has already been read. This
14 portion has not been read in evidence. 2238-A is the
15 portion that has been read by the prosecution.

16 ACTING PRESIDENT: It will be admitted in
17 evidence.

18 CLERK OF THE COURT: Defense document 620-A-1
19 will receive exhibit No. 3532.

20 (Whereupon, the document above re-
21 ferred to was marked defense exhibit No.
22 3532 and received in evidence.)

23 MR. FREEMAN: I shall read exhibit 3532. By
24 way of explanation, this is the latter portion of the
25 question that was not included by the prosecution in

1 exhibit 2238 -- the latter portion of the answer to the
2 first question that was asked:

3 (Reading) "How long have you known General
4 TOJO?

5 "A At one time I was not very close to him, this
6 being the period when I was a professor at the War
7 College, until I became spokesman, the reason being
8 that Major General OBATA, who was the head of the
9 college, was not very close to TOJO, and, being a member
10 of his staff, I also became the same way.

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"Q Did you use your influence to have
1 General TOJO made Premier?

"A No, that is a mistake. There was nothing
2 like that.

"Q Did you ever talk with senior statesman
5 ABE about his appointment, or with HAYASHI, Senjuro?

(Q. by Interpreter: Is he also a senior statesmen?

A. by Interrogator: They are both senior statesmen.)

"A No, however, there is something I would
9 like to explain with regard to that.

"Q Certainly, go ahead.

"A The Japanese politicians believe that I
12 influenced ABE and HAYASHI in the appointment of TOJO.
13 However, that is not the truth. The explanation is
14 this. In October of 1941 Premier KONOYE resigned just
15 at the time when the United States and Japanese
16 negotiations were critical. This left the Army in a
17 difficult position. In order to stabilize the political
18 situation, TOJO had thought that some person like
19 Prince HIGASHIKUNI would be the logical successor.
20 However, since the appointment of a Prince to that
21 position is not the usual thing, TOJO felt that his
22 appointment would create more difficulty than even
23 the international situation. I was sent by TOJO to
24 see ABE and HAYASHI to explain this problem. Following

1 my visit, which the news reporters know of, there was
2 a meeting of the senior statesmen and the next day the
3 appointment of TOJO to the position of Premier was
4 announced. It was in this way that the public believed
5 that I had influenced TOJO's selection. Unfortunately
6 ABE and HAYASHI are from the same prefecture as myself.

7 "Accepting the story as the truth, I would
8 like to add the following: When the newspapermen came
9 to me telling me of the Imperial Decree for TOJO to
10 form a new Cabinet, I had not known of it nor did I
11 believe it. I told the newsmen that they must be
12 mistaken.

13 "Q General, will you please take a sheet of
14 paper and draw a graph showing the relation of the
15 Military Affairs Bureau to the War Ministry and to
16 the other Bureaus of the War Ministry -- just a graph
17 or a diagram?"

18 That graph is attached to this document.

19 "Q Have you shown on the chart the Prisoners
20 of War Information Bureau and the Prisoners of War
21 Management Bureau?

22 * * *

23 "Q Did all of the other Bureaus here deal
24 directly with the Vice-Minister of War, or did their
25 matters go through your Bureau?

"A They were all able to go directly to
1 the Vice-Minister or Minister. However, when the
2 matter concerned some other Bureau they maintained
3 liaison with that Bureau concerned.

"Q That is, your Bureau was the policy
5 making Bureau of the Ministry. Wasn't that true?

"A Generally speaking, our department
7 handled the policies of the following: Organization,
8 budget, system, regulations, national defense, military
9 administration of occupied territories, and finally
10 domestic and foreign affairs which concerned the Army."

If the Tribunal please, here, these next
12 questions relate to that part that was left out
13 relative to his interrogation concerning the Doolittle
14 Fliers.

"Q Weren't you in on the conference at which
17 that matter was decided?

"A No, I was not there.

"Q Were you consulted about the matter?

"A No.

"Q We have correspondence from the Commander
22 of the China Expeditionary Force to the War Minister,
23 asking for advice concerning the disposition of these
24 fliers.

"A You have the correspondence?

1 "Q Yes, I have seen the correspondence and
2 the direction came from the War Ministry.

3 "A I am not familiar with the directive.
4 I do not know through what channels that directive
5 had been presented. As far as I can remember, it did
6 not come through me.

7 "Q Were you aware of the Imperial Conference
8 which was held on the 6th day of September 1941?

9 "A I do not recall if there was one on that
10 date, inasmuch as I did not attend them, but there may
11 have been.

12 "Q Were you ever a member of the Supreme
13 War Council?

14 "A I was not a member. However, I was
15 something like a Staff Secretary.

16 "Q You felt, did you not, during the fall
17 of 1941 that war with the United States was inevitable?

18 "A No.

19 "Q Didn't you so advise General TOJO?

20 "A No, I have never told him that. I was
21 always in opposition to becoming involved in any
22 other war before settling the China affair. I was in
23 earnest about finishing the China affair.

24 "Q It is further stated that normally it
25 was not the duty of the Chief of the Military Affairs

Bureau to order other Bureau Chiefs, but technically
1 the Chief of the Military Affairs Bureau was the
2 superior officer to the Chiefs of Bureaus such as
3 the Prisoners of War Information Bureau.
4

"A No, the Chief of the Military Affairs
5 Bureau could never order any other Bureau."

I next offer in evidence defense document
7 2643 which is an affidavit by HARA, Shiro, which,
8 coupled with exhibit 344 refutes the affidavit of
9 TANAKA attached to exhibit 1175.
10

ACTING PRESIDENT: It will be admitted in
11 evidence.
12

CLERK OF THE COURT: Defense document 2643
13 will receive exhibit No. 3533.
14

(Whereupon, the document above
15 referred to was marked defense exhibit
16 No. 3533 and received in evidence.)
17

MR. FREEMAN: At this time, with the Tribunal's
18 permission, I would like to ask Captain Kraft of the
19 Arbitration Board to come to the lectern and ascertain
20 whether exhibit 1175 as read in evidence was correct
21 as to one item. That item refers to a line at the
22 beginning of exhibit 1175 which we contend was improperly
23 translated. If the Tribunal please, I understand he has
24 already made that correction in court. I am sorry.
25

HARA

DIRECT

34,450

I shall read exhibit 3533:

"I am former Lieutenant Colonel of the Army, HARA, Shiro. From November 1940 to February 1942, as member of the 20th section of Army General Staff, I treated, in the Army General Staff, such matters relating to the Liaison Conference between the Government and the Imperial Headquarters and those relating to the Imperial Conference. Therefore, I am familiar with the document entitled 'A Draft regarding the fundamental reason of the opening of the war against U.S.A. and Great Britain,' (exhibit 1175) presented by the prosecution.

"Under the title of this document (in the English text, it is mentioned to the right of the title) it is written as 'Project to be decided at the Liaison Conference.'"

I understand they want this witness in court.

I am sorry.

- - -

S H I R O H A R A, called as a witness on behalf of the ~~Accuse~~, being first duly sworn, testified through Japanese interpreters as follows:

DIRECT EXAMINATION

BY MR. FREEMAN:

Q Will you state your name and address?

HARA

DIRECT

34,451

A My name is HARA, Shiro; my address No.,
1 14 Honshio-cho, Shinjuku-ku, Tokyo.
2

MR. FREEMAN: May the witness be shown
3 defense document 2643?
4

5 (Whereupon, a document was handed
6 to the witness.)
7

Q Is that your affidavit and have you signed
8 it?
9

A This is my affidavit, and I have signed it.
10

Q Are the contents true and correct?
11

A The contents are true and correct.
12

MR. FREEMAN: If the Tribunal pleases, since
13 this is already in evidence, I will continue reading
14 it.
15

ACTING PRESIDENT: Is that the document
16 that you just introduced in evidence?
17

MR. FREEMAN: Yes, sir.
18

ACTING PRESIDENT: Before you start reading
19 it, I think we had better recess for fifteen minutes.
20

(Whereupon, at 1445, a recess
21 was taken until 1500, after which the
22 proceedings were resumed as follows:
23
24
25)

HARA

DIRECT

34,452

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: Mr. Freeman.

4 MR. FREEMAN: If the Tribunal please, I continue
5 reading exhibit 3533 beginning with section 2:

6 "Under the title of this document (in the English
7 text it is mentioned to the right of the title) it is
8 written as 'Project to be decided at the Liaison Con-
9 ference.' Project to be decided does not mean the
10 project already decided. It means a draft which awaits
11 decision at some future date.

12 "At that time, a deliberation was being carried
13 out among the officials concerned of the Army General
14 Staff, Navy General Staff, Army Ministry, Navy Ministry
15 and Foreign Office in order to regulate and unify the
16 differences between the high command and the government
17 in regard to the fundamental reasons relative to the
18 opening of hostilities, in case the worse occurred and
19 war became inevitable. The present document is nothing
20 but one of those kinds of drafts for study.

21 "3. This document was never presented to the
22 Liaison Conference or put on the agenda for discussion.
23 It is just a plan of study for the officials concerned.
24 The plan proves that for itself. It is because, on the
25 right top of the title (in English text, on the left),

HARA

DIRECT

34,453

1 it is marked as No. 4 of 5 copies, which means that
2 five copies were made. That proves that it was made for
3 the use of five officials within sections of the Army
4 General Staff, Navy General Staff, Army Ministry, Navy
5 Ministry and Foreign Office, each being distributed a
6 copy.

7 "If it was prepared for the use of the Liaison
8 Conference, then at least thirteen copies were needed.
9 because the members usually present at these conferences
10 at that time were Prime Minister, Foreign Minister, War
11 Minister, Navy Minister, Finance Minister, President of
12 Planning Board, Chief and Vice Chief of Army Staff, Chief
13 and Vice Chief of Navy Staff and the secretaries, in all
14 thirteen.

15 "4. As it is clear from the above, the present
16 document was drafted collectively by officials of the
17 Army General Staff, Navy General Staff, Army Ministry,
18 Navy Ministry and Foreign Office. It was not written
19 by the Chief of Military Affairs Section, SATO as
20 testified by the prosecutors' witness, TANAKA, Ryukichi.
21 It is neither drafted by Military Affairs Section of
22 War Ministry. It is for this reason, that the name of
23 the draft department is not mentioned following the
24 customs of Japanese administration of that time. If
25 the present document were drafted at the Army Affairs

1 Section, then it would have been mentioned as 'Draft
2 of Military Affairs Bureau, War Ministry' or 'Draft
3 of Military Affairs Section, Military Affairs Bureau.'

4 Moreover, on the right top of this document
5 it is written 'No. 4 of 5 copies.' But, according to
6 the custom of the Army, it would have been written as
7 'the 4th among 5 copies' (Army used rubber stamp of
8 'the ____ among ____ copies' and the number inserted
9 with ink) that proves definitively that the present
10 document was not prepared by the Army or War Ministry."

11 MR. FREEMAN: If the Tribunal please, I have
12 one or two additional questions to ask this witness
13 on direct.

14 BY MR. FREEMAN (Continued):

15 Q In the last paragraph of your affidavit are
16 you saying that if there were an official document
17 prepared in the War Ministry it would have the seal of
18 the War Minister on it?

19 A Yes.

20 Q Had this document ever been considered by
21 the Liaison Conference? You were in a position to know
22 that, were you not?

23 A This document was not taken up by the Liaison
24 Conference.

ACTING PRESIDENT: Colonel Mornane.

1 CROSS-EXAMINATION

2 BY COLONEL MORNANE:

3 Q Witness, in your affidavit you say you are
4 familiar with exhibit 1175. When did you first see it?

5 A About the middle of November, 1941.

6 Q And where did you see it?

7 A In the office of the 20th Section of the
8 9 General Staff office.

10 Q And you suggest that that was one of five
11 copies, one part of each, one copy of each being dis-
12 tributed to the General Staff of the Army, General
13 Staff of the Navy, the War Ministry, Navy Ministry
14 and Foreign Office, is that so?

15 A Yes.

16 Q Can you say by which agency this document
17 was prepared?

18 A Yes, I can.

19 Q By whom was it prepared?

20 A This was a joint draft made by the officials
21 concerned of the General Staff office of the Army, the
22 Naval General Staff office, the War Ministry, the Navy
23 Ministry and the Ministry for Foreign Affairs.

24 Q And how can you tell that?

25 A I am familiar with this document because I

1 Was an assistant to the then Colonel TANEMURA who par-
2 ticipated in the drafting of this document on behalf of
3 the General Staff office.

4 Q And when did that drafting take place?

5 A The middle of November, 1941.

6 Q That is somewhere about the date it bears,
7 the 11th of November?

8 A Yes.

9 Q And who was the representative from the
10 War Ministry that took part in drafting this document?

11 A Former Colonel ISHII, Akiho.

12 Q What was his posting?

13 A His name was ISHII, Akiho. He was a member
14 of the Military Affairs Section of the War office.

15 Q And at that time the accused SATO was the
16 Chief of the Military Affairs Section?

17 A Yes.

18 Q Now, you say in paragraph 4 of your affi-
19 davit: "It was not written by the Chief of the Mili-
20 tary Affairs Section, SATO, as testified by the
21 prosecutors' witness, TANAKA, Ryukichi." How do you
22 know what SATO-- what TANAKA testified to as regards
23 to that matter?

24 MR. FREEMAN: If the Tribunal please, I object
25 to that question on the ground that it is a matter of

record that TANAKA has made an affidavit to the effect
1 that SATO wrote this document, and that is in evidence.

2 ACTING PRESIDENT: He can ask the question on
3 cross-examination. Objection overruled.

4 Q Will you answer the question, Witness?

5 A I learned of his testimony through the news-
6 papers and also the transcript of this Tribunal.

7 COLONEL MORNANE: Could the witness be shown
8 exhibit 1175, the Japanese copy, the certificate?

9 (Whereupon, a document was handed
10 to the witness.)

11 Q Now, Witness, have a look at that document,
12 the affidavit made by TANAKA, and you will find that
13 he makes the following certificate on it, the only
14 time he mentions SATO's name: "I further certify that
15 to the best of my knowledge and belief the attached
16 document was prepared by or under the direction of
17 SATO, Kenryo, then Chief of the Military Affairs Sec-
18 tion of the Military Affairs Bureau." Is that correct?

19 A This is not TANAKA's affidavit, this is a
20 different document.

21 COLONEL MORNANE: Could it be pointed out to
22 the witness the certificate that TANAKA has on top of
23 that document? Perhaps the Language Arbitrator who
24 is in court could pick it out in a few moments, if

the Tribunal pleases.

If the Tribunal pleases, apparently the original affidavit of TANAKA is in English, and I have read out to the witness the certificate that TANAKA put on the document. I propose to proceed from there.

Q. Witness, were you actually present when these five officials drafted this document, exhibit 1175?

A. No, I was not there.

Q. And you cannot say whether the ideas contained in this originally came from one, two, three or the whole of the five of them, can you?

A. I can.

Q. From whom? From which one of the five did these ideas come?

A. This is a draft on which all five of the representatives came to complete agreement.

Q. Yes. But what I am putting to you, Witness, before this draft was made which they agreed on there must have been an interchange of ideas. That is so, is it not?

A. Yes,

Q. And you cannot say whether the idea expressed by the representative from the Foreign Office, say, was taken and accepted by the other four, can you?

1 MR. FREEMAN: If the Tribunal pleases, I
2 object to this question. The witness has testified
3 that the five who compiled this document when it was
4 completed agreed to it, and as to the conversations
5 which took place between them no one could know unless
he were present.

ACTING PRESIDENT: Objection overruled.

Q Will you answer the question, Witness?

8 May I have the question repeated?

(Whereupon, the Japanese court
reporter read.)

11 A (Continuing) I have no recollection in detail
12 as to what views had been exchanged among the five
13 drafters. However, my recollection is that generally
14 speaking the views of the five representatives who
15 drafted the plan came to an agreement.

17 Q And you cannot say whether they came to an
18 agreement on the views originally submitted by this
19 representative of the Military Affairs Section or not,
20 can you?

21 MR. FREEMAN: I object to that question.

22 There is no evidence that either of the five submitted
23 any views.
24

25 ACTING PRESIDENT: You seem to forget that
this is cross-examination. Objection overruled.

Q Would you answer that question, Witness?

A May I have the question repeated?

(Whereupon, the Japanese court reporter read.)

A (Continuing) In connection with this draft I do not know where the original draft came from, whether it was the War Ministry, the Navy Ministry, the High Command or the Government.

Q Thank you, Witness.

COLONEL MORNANE: Now, could the witness be shown exhibit 919?

(Whereupon, a document was handed to the witness.)

Q Now, Witness, that was also a plan to be presented to the Liaison Conference, is it not?

A I have no recollection as to this document.

Q Will you have a look -- keep that document there and have a look at exhibit 878.

(Whereupon, a document was handed to the witness.)

Q (Continuing) Now, Witness, that purports to be the actual Liaison Conference decision made on the 13th of November, 1941, and you in your position at that time would be familiar with that document, would you not?

A I do recall the title at the top of this
1 document.

2 Q That is the actual decision arrived at by
3 the Liaison Conference?

4 A Inasmuch as this document does not bear the
5 signatures and seals of the regularly constituted
6 members of the Liaison Conference I cannot say with
7 any responsibility whether this plan was actually
8 adopted or decided upon by the Liaison Conference.

9 Q You can't recall from the contents of the
10 document? Well, then, have a look at exhibit 919
11 again. That appears to be a plan for that Liaison
12 Conference and is dated the 11th of November, 1941,
13 is it not? Will you answer, Witness?

14 A I have no recollection as to this document.

15 Q At all events you will notice that it does
16 not have on the top of it the name of the Draft Depart-
17 ment. That is so, isn't it?

18 A No, there is nothing written here.

19 COLONEL MORNANE: That concludes the cross-
20 examination, if it please the Tribunal.

21 MR. FREEMAN: I have no further questions.
22 May the witness be excused?

23 ACTING PRESIDENT: The witness will be excused
24 under the usual conditions.

25 (Whereupon, the witness was excused.)

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1 MR. FREEMAN: If the Tribunal pleases,
2 defense document 2664 has been tendered and is ex-
3 hibit 3530. The corrections I understand to have
4 been made were made on another affidavit and not on
5 this revised copy; and I also have additional direct
6 questions to ask the witness. So I ask that Colonel
7 OTSUKI be brought in.

8 ACTING PRESIDENT: Is there any question
9 now about the correct translation of this document?

10 MR. FREEMAN: No, sir.

11 I read in evidence exhibit 3530. I under-
12 stand the witness isn't here.

13 ACTING PRESIDENT: Does the prosecution
14 desire to cross-examine this witness?

15 MR. FREEMAN: No, sir. (Reading):

16 "Having been duly sworn in accordance with
17 the procedure followed in my country, I do hereby
18 depose and say as follows:

19 "1. I was formerly Colonel of the Imperial
20 Army.

21 "2. My career in the army was as follows:

22 "1923 - graduated from the Military Academy.

23 "1933 - graduated from War College.

24 "March 1935 - attached to the Secretariat
25 of the War Ministry.

"November 1937 - member of Military Affairs

1 Bureau.

2 "July 1938 - Staff Officer of the China
3 Expeditionary Forces.

4 "April 1939 - member of Military Affairs
5 Bureau.

6 "September 16, 1941 - attached to the
7 Army Section of the High Command and concurrently
8 nominated to the professor of War College.

9 "When the Pacific War started I was nomi-
10 nated as a Staff Officer of the Southern Army and in
11 December 1941 arrived at Saigon. In July 1942, I
12 arrived at Singapore, following the transfer of the
13 Headquarters of the Southern Army. Toward the end
14 of July 1942, I was nominated as a Staff Officer of
15 the 14th Division and transferred to Manila. From
16 January 1943 to January 1945 I was in China. In
17 March 1940 I was promoted to Lieutenant Colonel
18 and in March 1944 to a full Colonel.

19 "3. In April 1942, when Tokyo was raided
20 by American Air Forces and at the time of the trial
21 and execution of the Doolittle fliers, I was not in
22 the War Ministry nor even in Japan. Therefore, I
23 knew nothing about the trial and punishment of the
24 fliers. Naturally I never expressed an opinion, nor

1 discussed them with General TANAKA, Ryuikichi, Chief
2 of the Military Service Bureau, at any time. His
3 statement to the International Tribunal that I came
4 to see him several times relative to the Doolittle
5 fliers is wholly untrue and without any foundation
in fact.

6 "On this 27th day of September 1947."
7 I next offer in evidence defense document
8 No. 2665, which is the affidavit of KURAMOTO, Kei-
9 jiro, which explains the circumstances under which
10 the accused SATO was given an award, exhibit 1222,
11 in China. This award was made to the accused in
12 his capacity as Assistant Chief of the China Expe-
13 ditionary Force. He was colonel at the time in the
14 Nanning area and had nothing to do with the Indo-
15 China Incident, which occurred at a date after this
16 award. The witness will not be called because they
17 don't want to cross-examine him. I tender this docu-
18 ment in evidence.

19
20 ACTING PRESIDENT: It will be admitted in
21 evidence.
22

CLERK OF THE COURT: Defense document 2665
will receive exhibit No. 3534.

(Whereupon, the document above re-
ferred to was marked defense exhibit No.

3534 and received in evidence.)

1 MR. FREEMAN: I will read into evidence
2 exhibit 3534, omitting the formal parts:

3 "2. I was formerly Major-General of the
4 Army. From December 1928 to the end of the war I
5 was in War Ministry and ~~dealt~~ with the reward affairs
6 in the Personnel Bureau. As I made investigation of
7 the merit for the 1st Chinese Incident, I know the
8 reason why Kenryo SATO (Colonel at that time) was
9 bestowed of the 3rd degree of the Order of Golden
10 Kite.

11 "3. The period of the reward of the
12 Chinese Incident ended April 29, 1940. Therefore,
13 the bestowal of the order to Colonel SATO is due to
14 his merit at the battle of Nanning (China) area in
15 his capacity of Vice-Chief of Staff of the China
16 Expeditionary Forces and has no connection with the
17 advance in Indo-China.

18 "On this 29 day of September 1947."

19 I next offer in evidence defense document
20 2733, which is the affidavit of General NAKAMURA,
21 Aketo, which shows that the accused had nothing to
22 do with the disposition of prisoners of war while
23 in command of the 37th Division in Siam in 1945.

24 ACTING PRESIDENT: It will be admitted in

1 evidence.

2 CLERK OF THE COURT: Defense document 2733
3 will receive exhibit No. 3535.

4 (Whereupon, the document above
5 referred to was marked defense exhibit
6 No. 3535 and received in evidence.)

7 MR. FREEMAN: I will read into evidence
8 exhibit 3535:

9 "Having been duly sworn in accordance with
10 the procedure followed in my country, I do hereby
11 depose and say as follows:

12 "1. I was formerly Lieutenant General of
13 the Army. On January 1943 I went to Siam as Commander
14 of the army stationed in that country. I stayed in
15 Bangkok till I came back to Japan in April 1946.

16 "2. Kenryo SATO arrived at Siam from Saigon
17 in June 1945, as chief of the 37th Division.

18 "3. The assignment of the 37th Division in
19 Siam was purely operative. The chief of the Division
20 had no authority relative to the disposition or the
21 employment of POWs.

22 "4. I heard nothing about the POW's matters
23 in connection with his division during my stay in
24 Siam."

25 If the Tribunal pleases, that concludes the

individual defense of the accused SATO.

1 ACTING PRESIDENT: Is counsel for the
2 defendant SHIGEMITSU ready to proceed?

3 MR. FREEMAN: The next to follow is the
4 individual defense of the accused SHIGEMITSU. Mr.
5 Furness, I understand, is on the way to the court-
6 room.
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ACTING PRESIDENT: Mr. Furness.

1 MR. FURNESS: If the Court please, the opening
2 of the defense of the accused SHIGEMITSU began with
3 one of the first witnesses I cross-examined, Baron
4 SHIDEHARA. Since then I have cross-examined many
5 witnesses on the prosecution case, have conducted
6 direct and cross-examination of defense witnesses,
7 both on the general and individual phases.

8 ACTING PRESIDENT: Is this your opening state-
9
10 ment?

11 MR. FURNESS: It will only be a paragraph more.
12 I am making no real opening statement, your Honor.

13 If I were to outline the evidence in his
14 behalf, I would therefore have to cover not only the
15 evidence I now intend to adduce, but also all the
16 witnesses and documentary proof whose testimony is
17 already a part of the record on which we intend to
18 rely. Furthermore, a large part of my opening would
19 be duplicated again in my summing up. I shall there-
20 fore reserve my speech-making for my summation and will
21 proceed with my proof.

22 Now, this Tribunal will recall that prosecution
23 witness Baron SHIDEHARA testified, pages 1372 to 1376
24 of the transcript, regarding his peaceful policy
25 toward China, and that the accused SHIGEMITSU, as

Minister to that country, gave it his most loyal and
1 energetic support. Again, the prosecution witness
2 MORISHIMA, on pages 3037 to 3062 of the transcript,
3 testified as to the difficulties in China, both prior
4 and subsequent to the Mukden Incident, and to the part
5 played by the accused SHIGEMITSU in trying to settle
6 them by peaceful means.
7

ACTING PRESIDENT: General Vasiliev.

GENERAL VASILIEV: I do not understand what
8 is the meaning of what we have just heard. This may
9 only be the subject matter of the summation, but cer-
10 tainly not the opening statement, and I really do
11 12 13 not understand what it is.

MR. FURNESS: If your Honor pleases, it is
14 just running comment. I have come to the last sentence
15 of it now and was about to offer a document in
16 evidence.
17

ACTING PRESIDENT: Continue, Mr. Furness.

MR. FURNESS: As documentary proof of such
18 efforts, I offer in evidence defense document 1807,
19 20 21 22 23 24 an official dispatch from Minister SHIGEMITSU to
25 Foreign Minister SHIDEHARA. I shall read only Paragraph
2 of this exhibit.

ACTING PRESIDENT: It will be admitted in
evidence.

CLERK OF THE COURT: Defense document 1807

1 will receive exhibit number 3536.

2 (Whereupon, the document above
3 referred to was marked defense exhibit
4 No. 3536 and received in evidence.)

5 MR. FURNESS: This document is dated
6 August 26, 1931.

7 (Reading:) "2. In continuation of our talk
8 reported in Paragraph 2 of my telegram above referred
9 to, Soong stated his idea that he wishes to travel to
10 Dairen, Mukden and other places when his duty permits,
11 pretending that he had no particular purpose for his
12 trip, that he would exchange opinions with such people
13 as Count UCHIDA on what we might call easier questions
14 concerning Manchuria, such as customs and other matters,
15 and thereby try to clear up differences, letting
16 fundamental questions wait for the time being. He had
17 heard of Count UCHIDA's intention to make a trip to
18 the Shanghai area, and if so, it would be more convenient
19 for him, as he would have an opportunity to see the
20 Count there. In this case, he said he would exchange
21 opinions on these questions with me beforehand. He was
22 endeavoring, by all possible means, to prevent the
23 relations between both nations from deteriorating
24 unnecessarily and added that he was satisfied to think

that Chang Hsueh-liang had a fairly good mind to
1 render a listening ear to his words.

2 "I said thereto that, as his idea coincided
3 with our wish, I would submit in a form of memorandum
4 for his study various questions in need of adjustment,
5 except fundamental ones; that I had heard nothing about
6 Count UCHIDA's visit to Shanghai, which, I presume, he
7 did not intend now to make if Soong traveled north as
8 he had planned, that it would be beneficial for us
9 both, as he would have opportunity for forthright
10 exchange of opinions with Count UCHIDA and other persons.
11

12 If circumstances permitted, I would also travel north
13 on a suitable occasion, and would render proper assist-
14 ance to such interviews. I further expressed my
15 opinion that taking everything into consideration,
16 efforts on his part and on the part of Count UCHIDA
17 and others, who were influential personages but not
18 parties directly concerned with diplomacy, to endeavor
19 to adjust various questions concerning Manchuria would
20 be very effective. Soong stated that he was also eager
21 to realize his plan by all means."

22 As further proof, I tender in evidence defense
23 document 1808, also an official dispatch from SHIGEMITSU
24 to SHIDEHARA, received August 25, 1931.

ACTING PRESIDENT: It will be admitted in

evidence.

1 CLERK OF THE COURT: Defense document 1808
2 will receive exhibit number 3537.

3 (Whereupon, the document above
4 referred to was marked defense exhibit
5 No. 3537 and received in evidence.)

6 MR. FURNESS: I shall read that exhibit:
7 "It is not clear how far Soong is ready to go
8 in adjusting the questions pending between both nations
9 in regard to Manchuria. But, in view of the fact that
10 feelings on both sides have more or less been sharpened
11 on account of the Manchurian question, he seems to
12 have an intention first of all to settle as many
13 easier questions as possible, and thus to improve the
14 atmosphere, before taking up fundamental questions of
15 importance. At the same time, we, on our part, have
16 been constantly acting to encourage him in this
17 direction. As to Soong's trip to Manchuria, it will
18 probably be realized, as he has a fairly strong intention
19 for that, and it also means a return call to Chang
20 Hsueh-liang's visit to him at Nanking, as well as
21 Mrs. Chang Hsueh-liang's attendance at the funerals
22 of Soong's mother. I am of the opinion, therefore,
23 that it is advisable, or at least not futile, in view
24 of his relations with Chang Hsueh-liang, to let Soong

study in the meantime various questions in Manchuria
1 and the wishes of the Japanese side. We will, of course,
2 make preparations for that, but we shall be happy to be
3 supplied without delay with any suggestions, even if
4 they are fragmentary, in Japanese or preferably in
5 English, at any time when the Ministry is ready to make.
6

"Please take note that, as a result of my hope to
7 to cause Soong to travel in Manchuria and see the actual
8 situation there, I have replied to him about the rumor
9 of Count UCHIDA's trip to Shanghai in such a manner as
10 already reported in my telegram above referred to."
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As further evidence of the projected trip
1 to Manchuria, I offer in evidence defense document
2 1809, another official dispatch, dated 11 September
3 1931.

4 ACTING PRESIDENT: It will be admitted.

5 CLERK OF THE COURT: Defense document 1809
6 will receive exhibit No. 3538.

7 (Whereupon, the document above
8 referred to was marked defense exhibit
9 No. 3538 and received in evidence.)

10 MR. FURNESS: I shall read that exhibit.
11 "During the interview of my telegram No.
12 904 with T. V. Soong, he made a statement to the
13 following effect:

14 "He was especially concerned with the
15 Manchurian question, as the feelings on both sides
16 at present were such that it was difficult to foresee
17 anything that might happen. As soon as the prospect
18 of the Hunan question was clarified, he wished to
19 visit Chang Hsueh-liang in Peking, and then Chang
20 Tso-siang in Kirin in order to express his condolence.
21 On that occasion he would visit Dairen to exchange
22 opinions with Count UCHIDA. Although he was of the
23 opinion that, it was by no means opportune at the
24 present time to take up fundamental questions, there
25

1 were numerous easier ones for which it would be
2 possible to secure cooperation of both sides. and he
3 wished thereby to release the tension and bring
4 about as much conciliatory mood as possible. Then
5 Soong reminded me of the memorandum which I had
6 promised him a few days ago to have prepared on
7 pending questions in Manchuria, and expressed his
8 desire that, in case the trip I intended should be
9 also realized, some arrangement be made for us to
10 meet at Dairen or thereabout, with the idea that I
11 would assist him in achieving the purpose of his
12 journey.

13 "I, therefore, recommended him to make up
14 his itinerary quickly, as I would make mine accord-
15 ingly, and in as much compliance with his request as
16 possible. I added that I would send the memorandum
17 as soon as it was prepared. Soong further pointed out
18 the gravity of the Hunan situation about which he had
19 told us, as I have reported in my previous telegram
20 No. 913.

21 "Mukden is requested to inform Count UCHIDA
22 of this telegram through Director KIMURA."

23 I offer in evidence the last of these official
24 documents of this series, defense document 1810, another
25 official dispatch from Minister SHIGEMITSU to the

Foreign Minister, dated 13 September 1931.

1 ACTING PRESIDENT: It will be admitted in
2 evidence.

3 CLERK OF THE COURT: Defense document 1810
4 will receive exhibit No. 3539.

5 (Whereupon, the document above
6 referred to was marked defense exhibit
7 No. 3539 and received in evidence.)

8 MR. FURNESS: I shall read this exhibit.

9 "With reference to my telegram to the
10 Foreign Minister, No. 795 (Common Number 1027),
11 please send us without delay materials with which
12 it is necessary to keep T. V. Soong informed. Also
13 any suggestion will be appreciated."

14
15 The Tribunal will recall that on the
16 identification of the prosecution witness MORISHIMA,
17 whom I have just mentioned, I introduced into evi-
18 dence exhibit No. 246, record page 3052, an exchange
19 of official telegrams between then Minister SHIGE-
20 MITSU and Foreign Minister SHIDEHARA, just after the
21 Mukden Incident, regarding immediate appointment of
22 a joint commission of representatives of Japan and
23 China in order to settle the incident and to prevent
24 it from expanding. I read the first two telegrams
25 at that time which reported T. V. Soong's proposal

1 of such a commission to Minister SHIGEMITSU and his
2 urgent recommendation that it be quickly accepted.
3 I shall now read the balance of the exhibit.

4 (Reading):

5 "1. The recent action of the military
6 was based on their conception of the Emperor's
7 prerogative of supreme command, and was taken en-
8 tirely ignoring the government. Deep is my feeling
9 to see that whatever achievements in external affairs
10 resultant of our untiring efforts have been all of a
11 sudden reduced to nothing. I am profoundly dis-
12 tressed to think of the future of the nation.

13 "In this situation, it is most earnestly
14 desired that arbitrary actions of the military should
15 be interdicted so as to make the will of the State
16 emanate solely through the channel of the government,
17 that irresponsible and disadvantageous propaganda of
18 the military circles should be stopped, and that,
19 making its stand clear, the government should re-
20 establish political leadership.

21 "2. No sooner has the Chinese side found
22 the seriousness of the situation than it has as usual
23 decided upon tactics of nonresistance, so far as
24 military actions are concerned, and has adopted all
25 possible countermeasures short of military actions.

1 Not only the unified leadership of the party and the
2 government, but also all the anti-Japanese organiza-
3 tions which have already been well trained have be-
4 gun their activities. Economic boycott may be less
5 abominable, but in my opinion the students of the
6 whole country, who did not move at the time of the
7 unrest in Korea, may be active and will wield most
8 serious influences, and anti-Japanese feeling will
9 be brought to a higher pitch than at the time when it
10 was instigated by the so-called Twenty-One Demands,
11 and will be more and more aggravated with time."

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The next is the same date.

(Reading:) "As the matter stands today, there
1 is no foretelling that unpropitious incidents will not
2 happen outside Manchuria. (In this regard, I request
3 the Government to call full attention of our Navy in
4 no case whatever to move recklessly.) Should our troops
5 by any chance advance into North Manchuria, a clash with
6 Russia would immediately be surmised, and that will
7 make the situation ever more serious. (I conjecture
8 that this may be part of the plan of the military.)

"3. The Chinese Government will follow its
1 traditional policy of controlling one foreign country
2 through another, with unified force by quickly settling
3 internal strife, (the compromise pending with Canton
4 being now accelerated in earnest with possibilities to
5 be realized at last.) The policy of the Chinese Govern-
6 ment will be first of all to appeal to the League of
7 Nations (with which China now stands in closer relations
8 owing to T. V. Soong's approach to it,) and to rely upon
9 the United States by reason of the Kellogg-Briand Pact,
10 as well as upon the effect of propaganda at home and
11 abroad, trying thus to force evacuation of the Japanese
12 troops in exactly the same manner as she tried for the
13 restitution of Shantung. In any case, no Chinese
14 authorities will appear hereafter which will be able

1 to conclude any reasonable agreement with Japan on
2 the Manchurian question, or to begin negotiations for
3 that purpose. Consequently we shall have to be prepared
4 to see Japan and China in fact deprived of diplomatic
5 relations for a long time as a result of the present
6 incident, which also will have to remain exposed to
7 the censure of world public opinion, due to activities
8 on the part of the Chinese Government."

9 The next is a dispatch to Shanghai on
10 September 21, received September 25 -- I think those
11 dates must be wrong.

12 (Reading:) "On the 24th, the China Press has
13 published a dispatch from Nanking reporting that the
14 Japanese Government has made public the rejection by
15 the National Government of the unofficial proposal of
16 T. V. Soong made to Minister SHIGEMITSU on the 19th,
17 because of the latest developments of the incident have
18 made it impossible to put the proposal in practice,
19 (in publishing this kind of unofficial talk, the name
20 of T. V. Soong should better not be given, in consider-
21 ation of future negotiations,) reporting at the same
22 time a communique of the National Government on this
23 matter, which follows:

24 "Mr. Soong, Vice-President of Yuan, stated,
25 at a private talk with Minister SHIGEMITSU on the 19th,

that prompt organization of a commission would be possible to make factual investigations in order to prevent the friendly relations between the two countries from deteriorating. As organs of communications were at that time occupied by the Japanese military, he had only information giving him impressions that the incident was a purely local clash. But the warlike nature of the military operations of the Japanese Army having been made clear, and aggression continuing, the National Government has appealed to the League of Nations, which has made a decision to discuss the matter at 5 o'clock (Nanking time) on the 22nd. At noon of the same day, the Japanese Consul at Nanking called on Mr. T. V. Soong and communicated to him that the Japanese Government agreed to set up the aforesaid commission. Thereupon, Mr. T. V. Soong, representing the Government, communicated to him that all prospects for direct negotiations were absolutely frustrated owing to the invasion of Chinese territory by the Japanese Army."

I next offer in evidence the affidavit of
MORIYA, Kazuro, testimony regarding the events men-
tioned in the official documents which I have just
read and the Shanghai Incident of 1932. The prose-
cution has notified me that they do not desire to
cross-examine this witness.

ACTING PRESIDENT: It will be admitted in
evidence.

CLERK OF THE COURT: Defense document 2704
will receive exhibit No. 3540.

(Whereupon, the document above
referred to was marked defense exhibit
No. 3540 and received in evidence.)

ACTING PRESIDENT: We will adjourn until
9:30 tomorrow morning.

(Whereupon, at 1600, an adjournment
was taken until Thursday, 4 December 1947, at
0930.)

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